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Supreme Court, U.S.
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No. 02-_____

In The

Supreme Court of the United States

NATIONAL RIGHT TO LIFE COMMITTEE, INC., ET AL.,
Appellants,
v.
FEDERAL ELECTION COMMISSION, ET AL., *Appellees.*

On Appeal from the United States District Court
for the District of Columbia

Jurisdictional Statement

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May 28, 2003

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Questions Presented

1. Whether the prohibition of § 101 of the Bipartisan Campaign Reform Act of 2002 (BCRA) on the solicitation, receipt, redirection, or use of "soft money" by any national political party for any communication that "promotes or supports . . . or attacks or opposes" a federal candidate, violates the First and Fifth Amendment and principles of federalism.

2. Whether the prohibition on federal officeholders and candidates from soliciting, receiving, directing, transferring, or spending "soft money" contained in BCRA § 101 violates the First Amendment.

3. Whether the prohibition on state officeholders and candidates from soliciting, receiving, directing, transferring, or spending "soft money" in connection with an election for federal office in BCRA §101 violates the First Amendment.

4. Whether the backup "electioneering communication" definition at BCRA§ 201, or its construction by the district court, violates the First Amendment.

5. Whether the requirements that "disbursements" and "expenditures" be reported as occurring when contracted for, rather than when made, BCRA §§ 201 and 212, are justiciable and violate the First Amendment.

6. Whether District Court injunction should extend to activities outside the District of Columbia.

7. Whether BCRA § 403(b), permitting members of Congress to intervene, and the permitted intervention by Intervenor-Defendants without regard to whether they have Article III standing, violates the Constitution.

Parties to the Proceedings

This jurisdictional statement is filed on behalf of the following **Plaintiffs-Appellants** represented by the James Madison Center for Free Speech (JMC Appellants): U.S. Representative Mike Pence, Alabama Attorney General Bill Pryor, Libertarian National Committee, Inc. (LNC), Club for Growth, Inc. (CFG), Indiana Family Institute, Inc. (IFI), National Right to Life Committee, Inc. (NRLC), National Right to Life Educational Trust Fund (NRL Ed Fund), and National Right to Life Political Action Committee (NRL PAC).[1]

As to the **appeal of the denial of the *Madison Center Plaintiffs' Motion to Alter or Amend the Judgment*** herein, Trevor M. Southerland, and Barret Austin O'Brock were also plaintiffs below and are appellants along with the previously listed JMC Appellants.[2]

Plaintiffs below not represented by the Madison Center were U.S. Senator Mitch McConnell, former U.S. Representative Bob Bar, American Civil Liberties Union, Associated Builders and Contractors, Inc., Associated Builders and Contractors Political Action Committee, Center for Individual Freedom, National Right to Work Committee, 6-Plus Association, Inc., Southeastern Legal Foundation, Inc., U.S. English d/b/a/ ProENGLISH, Thomas McInerney.

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[1]**Withdrawn Plaintiffs** below are Alabama Republican Executive Committee, Libertarian Party of Illinois, Inc., DuPage Political Action Council, Jefferson County Republican Executive Committee, Christian Coalition of America, Inc., and Martin Connors.

[2]The Madison Center represented these two minors, who would be appellees as to their successful challenge to the ban on contributions by minors to candidates or political party committees. Mr. Southerland will become 18 years of age on May 28, 2003. .

Defendants and **Intervenor-Defendants**, Appellees, herein, are the Federal Election Commission (FEC), Federal Communication Commission (FCC), John D. Ashcroft, in his capacity as Attorney General of the United States, the United States Department of Justice; and the United States of America, U.S. Senator John McCain, U.S. Senator Russell Feingold, U.S. Representative Christopher Shays, U.S. Representative Martin Meehan, U.S. Senator Olympia Snowe, and U.S. Senator James Jeffords.

Defendants in consolidated cases: (in addition to those named above) David W. Mason, Ellen L. Weintraub, Danny L. McDonald, Bradley A. Smith, Scott E. Thomas, and Michael E. Toner, in their official capacities as FEC Commissioners.

Plaintiffs in consolidated cases:

- *National Rifle Ass'n v. FEC*, No. 02-581 — National Rifle Association of America (NRA) and NRA Political Victory Fund
- *Echols v. FEC*, No. 02-633 — Emily Echols, Daniel Solid, Hannah McDow, Isaac McDow, Jessica Mitchell, and Zachary White.
- *Chamber of Commerce v. FEC*, No. 02-751 — Chamber of Commerce of the United States, U.S. Chamber Political Action Committee, and National Association of Manufacturers (Plaintiff National Association of Wholesaler-Distributors withdrew.)
- *National Ass'n of Broadcasters v. FEC*, No. 02-753 — National Association of Broadcasters
- *AFL-CIO v. FEC*, No. 02-754 — AFL-CIO and AFL-CIO Committee on Political Education and Political Contributions

- *Paul v. FEC*, No. 02-781 — U.S. Representative Ron Paul, Gun Owners of America, Inc., Gun Owners of America Political Victory Fund, Realcampaignreform.org, Citizens United, Citizens United Political Victory Fund, Michael Cloud, and Clara Howell
- *Republican National Committee v. FEC*, No. 02-874 — Republican National Committee, (RNC), Robert Michael Duncan, former Treasurer, current General Counsel, and Member of the RNC, the Republican Party of Colorado, the Republican Party of New Mexico, the Republican Party of Ohio, and the Dallas County (Iowa) Republican County Central Committee
- *California Democratic Party v. FEC*, No. 02-875 — California Democratic Party, Art Torres, Yolo County Democratic Central Committee, California Republican Party, Shawn Steel, Timothy Morgan, Barbara Alby, Santa Cruz County Republican Central Committee, and Douglas Boyd, Jr.
- *Adams v. FEC*, No. 02-877 — Victoria Jackson Gray Adams, Carrie Bolton, Cynthia Brown, Derek Cressman, Victoria Fitzgerald, Anurada Joshi, Peter Kostmayer, Nancy Russell, Kate Seely-Kirk, Rose Taylor, Stephanie Wilson, California Public Interest Research Group (PIRG), The Fannie Lou Hamer Project, and Association of Community Organizers for Reform Now
- *Thompson v. FEC*, No. 02881 — U.S. Representatives Bennie Thompson and Earl Hilliard.

Corporate Disclosure Statement

None of the appellants has a parent corporation and no publicly held company owns ten percent or more of the stock of any of the appellants. Rule 29.6.

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Opinions Below

The district court's opinions have not yet been reported. *See* Appendix (App.) 3a. JMC Appellants' Notice of Appeal is reprinted at App. 1a-2a. Their Second Notice of Appeal is reprinted at App. 69a.

Jurisdiction

The district court issued judgment on May 1, 2003. Appeal is direct. BCRA § 403(a)(1). JMC Appellants noticed appeal on May 7, 2003. On May 19, 2003, the district court denied *Madison Center Plaintiffs' Motion to Alter or Amend the Judgment* on May 19, 2003, and their Second Notice of Appeal as to this issue was filed on May 28, 2003. This Court has jurisdiction. 28 U.S.C. § 1253.

Constitutional & Statutory Provisions

BCRA is reprinted at App. 7a-68a.

Article I, § 4, of the U.S. Constitution is at App. 4a.

Article III, §2, clause 1, of the U.S. Constitution provides:

> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; – to all Cases affecting Ambassadors, other public Ministers and Consuls; – to all Cases of admiralty and maritime Jurisdiction; – to Controversies to which the United States shall be a Party; – to Controversies between two or more States; – between a State and Citizens of another State; – between Citizens of different States, – between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

The First Amendment to the Constitution is at App. 5a.

The Fourteenth Amendment to the Constitution is at App. 6a.

The Tenth Amendment to the Constitution provides:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Statement of the Case

The Litigation

This case involves multiple challenges to BCRA, which itself amends the Federal Election Campaign Act (FECA), Pub. L. No. 92-225, 86 Stat. 3 (1972) (codified as amended by Pub. L. No. 93-443, 88 Stat. 1263 (1974) at 2 U.S.C. §§ 431-455).

FECA set limits on the amount of money that individuals, political parties, and political committees may contribute to candidates, i.e., limits on "hard money." BCRA raises the contribution limits on individuals to candidates and political parties and the amount individuals may contribute, in aggregate, to all candidates, political committees, and political party committees. JMC Appellants do not challenge these FECA or BCRA "hard money" limits.

Many of the restrictions contained in the 1974 amendments to the FECA were challenged in *Buckley v. Valeo*, 424 U.S. 1 (1976). In *Buckley*, this Court recognized that contributions and expenditures involved the First Amendment rights of free speech and association. *Id.* at 19-23. At the same time, the Court recognized a compelling governmental interest in "prevention of corruption and the appearance of corruption" that would justify limits on contributions to candidates. *Id.* at 25.

As a result, the *Buckley* Court upheld FECA's contribution limits to candidates, but stuck down its limits on campaign

expenditures. *Id.* at 24-59. In the course of so deciding, this Court carefully distinguished between funds used for "express advocacy" (communications which expressly advocate the election or defeat of a clearly identified candidate by use of explicit words of advocacy) and "issue advocacy" (communications on issues of public concern that do not contain express advocacy). *Id.* at 44.

BCRA contains four titles that significantly expand the reach of FECA and that contain elements subject to challenge in this litigation.

Title I prohibits national political party committees for using money raised in compliance with state law, but not in compliance with federal law ("soft money"), for any purpose and from transferring it to any other entity, including state and local party committees. It forbids state and local party committees from spending non-federal money for any "federal election activity," which includes voter registration, voter identification, get-out-the-vote activity, and generic campaign activity when there is a federal candidate on the ballot, including advertising with certain references to federal candidates. It generally forbids federal officeholders and candidates from participating in raising or spending any non-federal funds, for themselves or others for "federal election activity." It bars state candidates from using non-federal funds for communications regarding candidates for federal office, even if those communications do not contain express advocacy.

Title II of BCRA, §§ 201 and 204, forbids corporations, unions, and entities using monies donated by unions and corporations from disbursing funds for "electioneering communications" – which § 203 defines as any broadcast advertisement within 30 days of a primary and 60 days of a general election that "refers to a clearly identified candidate for Federal office." Section 203 includes a fallback definition of

"electioneering communications" that includes any broadcast advertising at any time that "promotes," "supports," "attacks," or opposes a federal candidate and is "suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate." Disclosures to the FEC are also required of all persons who spend $10,000 on "electioneering communications." Sections 201 and 212 of Title II also impose disclosure requirements on those who enter into contracts to disburse funds for electioneering communication, regardless of whether communication occurs. Section 202 treats coordinated disbursements for electioneering communications as contributions to candidates. Section 213 requires political parties to choose whether to make independent or coordinated expenditures on behalf of a candidate.

Title III of BCRA, § 318, forbids minors from contributing "hard money" to any federal candidate and either "hard" or "soft" money to a political party committee. Section 305 conditions securing the lowest rates for broadcast advertising for federal candidates on certification that other candidates will not be referred to in the advertisement or that the advertisement will include a specified statement or identification. Section 311 requires detailed identification of sponsors of express advocacy or "electioneering communications." Sections 304, 316, and 319 increase the limitations on contributions and coordinated expenditures for candidates who have opponents with certain levels of personal funds in their campaigns.

Title V of BCRA, § 504, requires broadcasters to collect and disclose records of requests to buy broadcast time for communications "relating to any political matter of national importance," regardless whether the communications are made.

After BCRA was signed into law, eleven complaints were filed in the United States District Court for the District of Columbia challenging the constitutionality of multiple

provisions of BCRA. The cases were consolidated under BCRA § 403 before a three-judge panel. Expedited discovery was ordered; witnesses filed written statements and were cross-examined without immediate judicial oversight. Expedited briefing ensued, oral argument was held on December 4 and 5, 2002; the district court issued its Final Judgment on May 1, 2003, upholding and striking down various provisions of BCRA. JMC Plaintiffs filed their Motion to Alter or Amend the Judgment on May 19, 2003. JMC Appellants filed their Notice of Appeal as to the judgment on May 7, 2003, and their Notice of Appeal as to the denial of *Madison Center Plaintiffs' Motion to Alter or Amend the Judgment* on May 28, 2003.

The Uniqueness of JMC Appellants

This Jurisdictional Statement is filed on behalf of JMC Appellants with special characteristics that render their standing unquestionable. They include a unique minority national political party, a federal officeholder and candidate, a state officeholder and candidate, a broad spectrum of nonprofit issue advocacy groups, and a political action committee. Their wide range assures that, on nearly all issues, a JMC Appellant has Article III standing to challenge the particular BCRA provisions in question. Particular details about four of these Appellants highlights their uniqueness and clear standing, describing the conduct in which they engage that would violate BCRA.

Libertarian National Committee (LNC) is the governing body of the Libertarian Party at the national level.[3] The LNC is a nonprofit corporation that seeks to advance the principle that all individuals have the right to exercise sole dominion over their lives and have the right to live in whatever manner they

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[3]The Libertarian National Committee is the only national political party committee in *McConnell v. FEC*, thus the only party with standing to challenge BCRA's many restrictions on the conduct of national political parties.

choose, so long as they do not forcibly interfere with the equal right of others to live in whatever manner they choose.

The impact of BCRA on the Libertarian National Committee is significantly greater than on the Democratic National Committee (DNC) or Republican National Committee (RNC). The Libertarian Party is much smaller than either of the major parties. In size and administrative sophistication, the LNC is similar to a typical state affiliate of the RNC or DNC. The LNC does not seek, accept, or use any federal funds to conduct its campaigns.

The general administrative burdens imposed by FECA are the same on all political parties, regardless of size, so that the LNC must expend a relatively higher percentage of its resources on compliance with FECA than the RNC or DNC – a situation exacerbated by BCRA. Moreover, the LNC has less relative expertise and sophistication, a greater likelihood that it will commit errors in administering the requirements of FCA, and will have greater administrative duties advising state affiliates as the result of BCRA – all to the further relative detriment of the LNC. Considerable administrative expenses will be incurred and changes in the infrastructure of the Libertarian national and state parties will also be required in order to comply with BCRA.

Only 10-15% of LNC funds are placed in its "soft money" account, a far lower percentage than for the RNC or DNC, which place more than half their funds in "soft money" accounts. At present, the LNC has three principle sources of non-federal money: 1) list rental fees, 2) dues paid through state affiliates and forwarded from the state affiliates to the LNC, and 3) advertising in the LNC's newspaper, the *Libertarian Party® News*, and elsewhere. Only 7 of the 51 state affiliates of the national Libertarian Party have registered as political committees with the FEC, subject to FECA requirements. Very

little money received by LNC is from any corporate source (if funds from renting lists or advertising in the *Libertarian Party® News* are discounted) or from large individual contributions. In 2002, for example, only one individual contribution exceeded $20,000. During the past six years, no more than 4 donors to the LNC have exceeded this limit in any one year.

No federal officeholder has been a candidate of the Libertarian Party, and no candidate of the Libertarian Party has ever won a race for federal office. Libertarian Party federal candidates know that they have only a remote chance to win federal office, and they use their candidacies for running educational/issue advocacy campaigns that concentrate on advancing libertarian principles. Libertarian Party federal candidate campaigns are also focused on fostering party growth and gaining and maintaining ballot access in order to assure that there will be an electoral forum in which federal candidates might advocate libertarian principles. The Libertarian Party also sometimes raises issues without any express reference to any Libertarian Party federal candidate when major party candidates are not addressing them.

The LNC has in the past and intends in the future to engage in conduct that would violate BCRA. It solicits, receives, and uses non-federal funds to advocate issues, and, as a means to this end, supports Libertarian Party candidates in campaigns for federal and state elective office – although no Libertarian Party candidate has ever been elected to federal or statewide office.

It solicits, receives, and uses non-federal funds to finance issue advocacy communications. It transfers non-federal funds to state-affiliated parties that have in the past and intend in the future to receive such funds. It communicates with candidates for federal office and with federal officeholders and spends non-federal funds for issue advocacy communications regarding issues supported by federal candidates and federal

officeholders. The LNC makes both independent and coordinated expenditures on behalf of it's candidates for state and federal office, after the party's candidates are nominated, and transfers funds between national, state, and local party committees. The LNC solicits funds for and makes donations to I.R.C. § 527 and I.R.C. § 501(c) organizations that make expenditures and disbursements in connection with federal elections.

The Libertarian National Committee is a membership organization that requires the regular payment of dues from members to the LNC. Dues are frequently paid to state-affiliated Libertarian Parties, with a portion to be distributed to the Libertarian National Committee, so that those who pay dues may be members of both the state and national parties. Dues are often paid by one person on behalf of another, as a wife might pay for a husband, and are often paid with delays in forwarding them to the LNC. In these circumstances, the funds are appropriately deposited in state affiliates' "soft money" accounts. Under BCRA, these funds may not be transferred to the LNC, so that members who pay dues in such a manner must be denied membership in the Libertarian National Committee. Further, the LNC is substantially sustained by non-federal funds dues transfers from state-affiliated parties to the LNC and by purchases of literature and other educational materials from the LNC by state-affiliated parties. By forbidding such non-federal funds transfers, BCRA thus effectively criminalizes the entire current structure of the Libertarian National Committee as a membership organization.

The LNC has in the past and intends in the future to use non-federal funds to finance its ballot access drives and to finance all of its national conventions, which are held every other year. Libertarian Party conventions, held in years when there are no federal presidential elections, are solely devoted to discussion and advocacy of issues; no candidates for public

office are nominated for or selected to run as Libertarian Party candidates at these conventions.

Bill Pryor is presently the Attorney General of the State of Alabama and, until he is confirmed as a federal judge – a position for which he has been nominated, but for which he has not been confirmed – he will be a candidate in the next election for the office of Alabama Attorney General or for some other State office in Alabama.

As he has in the past, General Pryor intends in the future to make public communications that refer to clearly defined candidates for federal office and that promote or support candidates or attack or oppose a candidate for that office, including communications that do not expressly advocate the election or defeat of any federal candidate.

General Pryor has received and intends in the future to receive non-federal funds contributions from the Republican National State Elections Committee, a division of the Republican National Committee. As a candidate (and as a candidate in association with or in a group of candidates for state or local office or of individuals holding state or local office), he has in the past and intends in the future to spend funds lawfully raised under the laws of the State of Alabama, but raised and spent in compliance with the limitations imposed by BCRA, for the purpose of: (a) making public communications that refer to a clearly identified candidate for federal office and that promote or support a candidate or attack or oppose a candidate for that office, including communications that do not expressly advocate the election or defeat of a federal candidate; (b) engaging in voter registration activities conducted within 120 days of a federal election, and (c) engaging in voter identification, get-out-the-vote, and generic

campaign activities conducted in connection with an election in which a candidate for federal office is on the ballot.[4]

The Club for Growth, Inc. (CFG) is a nationwide ideological membership organization with approximately 5,000 members dedicated to advancing public policies that promote economic growth which is tax-exempt under § 527 of the Internal Revenue Code. The mission of CFG is to identify for its members the candidates for elective office who believe in these ideals, to monitor their performance in elected office, and to help finance their elections through CFG's connected PAC. CFG also helps finance strategic issue campaigns to advance its policy goals. In pursuit of these goals, CFG would violate BCRA in several ways.

CFG regularly makes disbursements for the direct costs of producing and airing "electioneering communications" in excess of $10,000 in a calendar year that: (a) refer to clearly identified candidates for federal office, (b) are made within 60 days before general, special, and runoff elections for the offices sought by the candidates and within 30 days before primary elections, and (c) are targeted to relevant electorates. CFG regularly talks with candidates about their positions on the issues in interviews and forums. On a regular and recurring basis, CFG (1) consults with both incumbent and challenger candidates on their positions on issues, (2) does "electioneering

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[4]General Pryor is the only plaintiff in *McConnell v. FEC* who complained against provisions of BCRA that forbid state candidates from receiving soft money from national political parties and that forbid raising or using non-federal money to refer (without express advocacy) to federal candidates or for registration, get-out-the-vote, and other generic election activities. Furthermore, General Pryor is the only state public official subject to provisions of BCRA that prohibit state officials from making public communications that refer to a clearly identified candidate for federal office.

communications," and (3) publishes communications with information about candidates' positions on issues. Some of these communications are done without any communication with any candidate and some are done after a communication with a candidate.

CFG is presently affected by BCRA. On May 13, 2003, the Democratic Senatorial Campaign Committee filed a complaint against CFG alleging that CFG had violated BCRA by broadcasting an "electioneering communication," under the lower court's truncated backup definition that prohibits any broadcast communication that "promotes or supports . . . or attacks or opposes" a candidate during the time that the backup definition was in effect. Letter from Robert F. Bauer & Marc E. Elias, Counsel for the Democratic Senatorial Campaign Committee (DSCC), to Lawrence Norton, FEC General Counsel (May 13, 2003).

The advertisement at issue was broadcast in South Dakota and told listeners to urge U.S. Senator Tom Daschle to support President Bush's pending tax cut plan. The complaint on behalf of the DSCC alleges that the advertisement "attacks [Daschle] for opposing the President's 'tax cut plan,'" in violation of the truncated backup definition. This advertisement is part of a broader effort by CFG to gain public and Congressional support for the President's tax cut plan.[5]

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[5]CFG has been running broadcast advertisements in support of President Bush's proposed tax cut, one of which has become the subject of the complaint by the DSCC to the FEC described. An advertisement was also run in Ohio depicting Ohio Senator George Voinovich, during the 18 days that the truncated backup definition was in effect, and has the following text:

> President Kennedy cut income taxes and the economy soared.
>
> President Reagan cut taxes more, and created fifteen million

National Right to Life Committee, Inc. (NRLC) is a 501(c)(4) corporation whose purpose is to promote respect for the worth and dignity of all human life from conception to natural death. NRLC's and its affiliated organizations' conduct would violate BCRA in several ways.

NRLC regularly makes disbursements for the direct costs of producing and airing "electioneering communications" in excess of $10,000 in a calendar year that: (a) refer to clearly identified candidates for federal office, (b) are made within 60 days before general, special, and runoff elections for the offices sought by the candidates and within 30 days before primary elections, preference elections, and conventions and caucuses of political parties with authority to nominate candidates for the offices sought by the candidates, and (c) are targeted to relevant electorates.

On a regular and recurring basis, NRLC: (a) lobbies candidate legislators on legislation, (b) consults with both incumbent and challenger candidates on their positions on issues, (c) engages in "electioneering communications," and (d) publishes printed communications, including voter guides.

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new jobs.
President Bush knows tax cuts create jobs, and that helps balance the budget.
But Senator George Voinovich opposes the president.
Ohio has lost thousands of jobs, and president Bush has a plan to help.
Tell George Voinovich to support the Kennedy, Reagan, Bush tax policy that will bring jobs back to Ohio.

Senator Voinovich is a candidate for federal office. While CFG believes that its advertisement is "neutral" and lawful, it depicts a federal candidate and could be considered by someone (as happened with the DSCC complaint to the FEC regarding the South Dakota ad), as not "neutral" under the truncated backup definition of BCRA.

These communications are done both with and without communications with candidates.

At present, NRLC is in the midst of Congressional legislative battles to ban human cloning, pass the Unborn Victims of Violence Act, and pursue other legislative interests. As part of these campaigns, NRLC plans to run broadcast advertisements in the Congressional districts of key members of Congress, naming the members of Congress, many or all of whom are candidates (i.e., have transacted $5,000 in "contributions" or "expenditures"), and could be viewed as attacking/opposing their positions on these legislative issues. The ads will be paid for with general corporate funds and will be similar to the AFL-CIO advertisement, "No Two Way," that Judge Leon found "not neutral"and thus contrary to BCRA because "it attacks [the candidate's] position on the federal budget." *Leon Memorandum Opinion* at 92.

National Right to Life Educational Trust Fund (NRL Ed Fund) is an internal § 501(c)(3) fund of NRLC. It qualifies as an "MCFL-type" organization under *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986). NRL Ed Fund has spent, and intends to do so again, more than $10,000 in a calendar year on broadcast communications that mention no candidate but advocate for or against issues that are hotly contested in contemporaneous political campaigns on which candidates running in the same geographic area have taken a position. Under the vague alternative definition of "electioneering communication," which examines whether a "communication . . . promotes or supports" or "attacks or opposes a candidate," § 201(a), it is unclear whether such conduct would be considered an "electioneering communication."

National Right to Life Political Action Committee (NRL PAC) is a connected § 527 fund of NRLC that is registered with the FEC as a political action committee subject to the FECA.

NRL PAC regularly makes contracts for independent expenditure communications in federal elections days, weeks, and months in advance of the time the actual independent expenditures are made. NRL PAC has suffered harassment and interference with contractual relationships as a result of federal candidates learning about arrangements with broadcasters to air independent expenditure in opposition to these candidates. NRL PAC intends to continue making independent expenditures, but its freedom of expression is burdened by the necessity of reporting them when contracts are made instead of when the independent expenditure is made.[6]

Mike Pence is the U. S. Representative from the Second Congressional District of the State of Indiana, first elected in 2000.He is an Assistant Majority Whip, Chairman of the Small Business Subcommittee on Regulatory Reform and Oversight, and serves on the Judiciary and Agriculture Committees. Representative Pence has raised, assisted to raise, and wishes to continue to raise and to assist in raising funds for Appellant Indiana Family Institute, Inc. (IFI), and he has communicated and wishes to continue to communicate with IFI with regard to raising and assisting in raising funds for IFI – conduct that would violate BCRA.[7]

Indiana Family Institute, Inc. (IFI), is an Indiana non-profit corporation that qualifies as an "MCFL-type" organization under *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986), and it qualifies as an "expressive association"

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[6]NRL PAC is the only Plaintiff in *McConnell v. FEC* that makes independent expenditures subject to BCRA.

[7]U.S. Representative Mike Pence is the only plaintiff in *McConnell v. FEC* to challenge provisions of FEC that forbid federal candidates from raising funds for entities involved in federal election activities, as defined by BCRA.

as described in *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000). IFI is dedicated to encouraging and invigorating Indiana families by offering them time-proven solutions to problems which harm the family, the church, and society. Over 10,000 Indiana residents receive IFI publications and many hear IFI radio programs and commentaries throughout the State of Indiana.

IFI has made and intends to make disbursements for the direct costs of producing and airing "electioneering communications" in excess of $10,000 that: (a) refer to clearly identified candidates for federal office, (b) are made within 60 days before general, special, and runoff elections for the offices sought by the candidates and within 30 days before primary elections, preference elections, and conventions and caucuses of political parties with authority to nominate candidates for the offices sought by the candidates, and (c) are targeted to relevant electorates. IFI also: (a) lobbies candidate legislators on legislation, (b) consults with both incumbent and challenger candidates on their positions on issues, (c) engages in "electioneering communications," and (d) publishes printed materials, including voter guides. Some of these communications are done: (a) without any communication with any candidate, (b) after communication with a candidate, and (c) done with the agreement and/or formal collaboration of a candidate.

Appellant U.S. Representative Mike Pence has raised and intends to continue to raise and to assist in raising funds for IFI; IFI has communicated and will continue to communicate with Representative Pence with regard to raising and assisting in raising funds for IFI.[8]

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[8]IFI is the only Plaintiff in *McConnell v. FEC* to complain against provisions of BCRA that forbid federal candidates from raising non-federal money for entities engaged in federal election

Questions Presented Are Substantial

Raising or Using "Soft Money" By National Political Party Committees to Promote, Support, Attack, or Oppose Federal Candidates

While the district court held unconstitutional most of the soft money provisions of BCRA (§ 101), it upheld its prohibitions on "soft money" solicited, received, redirected, or used by national, state, or local political committees that "promotes or supports . . . or attacks or opposes" a federal candidate.

Section 101 violates the First Amendment. It restricts the freedom of speech and association in a manner that exceeds the contribution and expenditure limitations at issue in *Buckley*. It directly restricts speech, and it restricts the right of national political party committees to associate with officeholders, candidates, other party committees, and other organizations. As such, it should properly be subjected to strict judicial scrutiny. *Citizens Against Rent Control/Coalition for Fair Housing v. Berkeley*, 454 U.S. 290, 299 (1981).

Under this standard of review, § 101 cannot survive scrutiny. The only interest that this Court has recognized to justify restrictions in the context of campaign finance is in reducing apparent or actual corruption. *FEC v. National Conservative Political Action Comm.*, 470 U.S. 480, 496-97 (1985). Special restrictions on political party committees cannot be justified since there are no "special dangers" of corruption associated with political parties." *Colorado Republican Fed. Campaign Comm. v. FEC*, 518 U.S. 604, 616 (1996). Moreover, use of campaign funds bear only an "attenuated" relationship to corruption unless there the funds are used "exclusively" to elect a candidate. *Id.* In any event, § 101 is not

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activities.

narrowly drawn. Even if there is a constitutionally cognizable compelling interest served by § 101, Congress might simply have restricted the amount of non-federal money raised rather than entirely banning its use.

Insofar as BCRA purports to regulate state election activities, the also violates the Tenth Amendment by subsuming powers reserved to the States. BCRA unconstitutionally interferes with state election activities if they even indirectly and remotely can be said to impact on federal elections in a manner that cannot be reconciled with our federal system.

Further, by unjustifiably discriminating against political parties, § 101 violates the equal protection component of the Fifth Amendment. Political party committees are entirely forbidden from using or raising non-federal money for any number of purposes – including specifically for communications to promote, attack, support, or oppose federal candidates. But all other citizens' groups are permitted to continue to raise and use nonfederal money for these purposes. This makes no constitutional sense when political parties have already been deemed to pose no "special dangers." *Colorado Republican Federal Campaign Committee v. FEC*, 518 U.S. 604, 616 (1996).

Finally, the terms used by § 101 to restrict freedom of speech – forbidding a communication that "promotes or supports . . . or attacks or opposes" a federal candidate – are unconstitutionally vague.

Federal Officeholders and Candidates. The district court also upheld BCRA § 101 insofar as it forbids federal officeholders and candidates from soliciting, receiving, directing, transferring, or spending "soft money." Like the direct restrictions on free speech of § 101, this prohibition violates the First Amendment. It restricts the freedom speech and association in a manner that exceeds the contribution and

expenditure limitations at issue in *Buckley v. Valeo*. It directly restricts speech by banning solicitation of funds. As an absolute ban, it is not narrowly drawn, as a restriction on amount might be.

State Officeholders and Candidates. Similarly, the district court upheld BCRA § 101 insofar as it forbids state officeholders and candidates from soliciting, receiving, directing, transferring, or spending "soft money" in connection with an election for federal office. This prohibition violates the First Amendment in the same manner as restrictions on federal candidates/officeholders. Moreover, it proceeds beyond the legitimates scope of the federal constitution reflected by the Tenth Amendment to the U.S. Constitution by purporting to regulate the conduct of state political candidates and officeholders.

The Truncated Backup Electioneering Communication" Definition

The district court also upheld the "backup" definition of "electioneering communications" of BCRA § 203, which, as construed by the lower court, reaches any broadcast reference to any candidate for federal office at any time "that is not neutral as to [the] candidate." Leon, J., Mem. Op. 92. The court also largely upheld the "electioneering communications" provisions of BCRA involving disclosure of electioneering communications (§§ 201 and 311), coordinated electioneering communications as contributions (§ 202), and the ban on electioneering communications by corporations and unions (§§ 203 and 204).

The definition of "electioneering communications" violates the First Amendment under this Court's decisions in *Buckley* and *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) (*MCFL*). In light of serious constitutional overbreadth considerations, this Court in *Buckley* narrowly construed

provisions in the FECA restricting expenditures "relative to a clearly identified candidate" and requiring disclosures for the purpose of "influencing" federal elections to embrace only "communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office." 424 U.S. at 44 and n. 52. "Express terms" were defined to include "communications containing express words of advocacy of election of defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'" *Id.* at 80. *See also MCFL*, 479 U.S. at 248-49.

The plain language of neither of § 203's definitions of "electioneering communications" can be reconciled with *Buckley*. Both embrace communications that go beyond "express advocacy" to include "issue advocacy." Judge Leon's attempted saving construction of the backup definition of §203 to any communication "that is not neutral as to [the] candidate" generates the same conflict with *Buckley*: A communication that is "not neutral" about a candidate still does not necessarily in "express terms advocate the election or defeat of a clearly identified candidate."

Moreover, the truncated backup "electioneering communication" definition is unconstitutionally vague. The terms it employs – "promotes," "supports," "attacks," and "opposes" – are all open to interpretation with regard to any specific advertisement.

The Circuit Courts of Appeal that have considered cases involving the express advocacy test's protection for issue advocacy do not agree with the district court below as to the constitutionality of tests abandoning this Court's own formulation of the express advocacy test. These courts have uniformly recognized that this Court's holdings in *Buckley* and *MCFL* are binding and require the bright-line test of explicit words expressly advocating the election or defeat of a clearly

identified candidate for federal office. Thus, there is a conflict between these circuits and the three-judge panel below.

"These courts rely primarily on *Buckley*'s emphasis on (1) the need for a bright-line rule demarcating the government's authority to regulate speech and (2) the need to ensure that regulation does not impinge on protected issue advocacy." *Chamber of Commerce v. Moore*, 288 F.3d 187, 193 (5th Cir. 2002). *See*, e.g. *Virginia Soc'y for Human Life v. FEC*, 263 F.3d 379, 391-92 (4th Cir. 2001) (*VSHL*) (a regulation that "shifts the focus of the express advocacy determination away from the words themselves to the overall impressions of the hypothetical, reasonable listener or viewer . . . is precisely what *Buckley* warned against and prohibited"); *Citizens for Responsible Gov't State PAC v. Davidson*, 236 F.3d 1174, 1187, 1193-95 (10th Cir. 2000) (Statutes unconstitutional where they could not be narrowly construed to apply "only to expenditures for communications that contain explicit words advocating the election or defeat of a clearly identified candidate."); *Vermont Right to Life Comm., Inc. v. Sorrell*, 221 F.3d 376, 386 (2d Cir. 2000) (finding all the parties "in essential agreement that the disclosure provisions . . . and reporting provisions . . . *are necessarily unconstitutional* unless they apply only to [communications] 'that expressly advocate the election or defeat of a clearly identified candidate.'" (emphasis added) (quoting *Buckley*, 424 U.S. at 80)); *Florida Right to Life v. Lamar*, 238 F.3d 1288 (11th Cir. 2001); *Iowa Right to Life Comm. v. Williams*, 187 F.3d 963, 969-70 (8th Cir. 1999) (To be regulable, "the communication must contain express language of advocacy with an exhortation to elect or defeat a candidate," and "[t]he Supreme Court has made clear that a 'finding of "express advocacy" depend[s] upon the use of language such as 'vote for,' 'elect,' 'support,' etc." (quoting *MCFL*, 479 U.S. at 249 (quoting *Buckley*, 424 U.S. at 44, n. 52)); *Brownsburg Area Patrons Affecting Change v. Baldwin*,

137 F.3d 503, 506 (7th Cir. 1998) (The Court [in *Buckley*] recognized the important First Amendment interest in protecting political speech, including discussions surrounding elections and candidates. . . . Because of the vital importance of protecting such speech, the *Buckley* Court articulated what has come to be known as the 'express advocacy' test . . . ."); *Faucher v. Fed. Election Comm'n*, 928 F.2d 468, 470 (1st Cir.1991) ("The Supreme Court, recognizing that such broad language . . . creates the potential for first amendment violations, sought to avoid future conflict by explicitly limiting the statute's prohibition to "express advocacy.").

Even the Ninth Circuit in *FEC v. Furgatch*, 807 F.2d 857 (9th Cir. 1987), recognized the binding nature of the express advocacy test, although in dicta it discussed the test in ways that seemed broader than the Supreme Court's articulation of the test.[9] However, the 9th Circuit has now affirmed that it fully embraces the *Buckley* formulation, by declaring that "a close reading of *Furgatch* indicates that we presumed express advocacy must contain some explicit *words* of advocacy." *California Pro-Life Council v. Getman*, 2003 WL 21027288 at *7 (9th Cir. 2003) (emphasis in original). This ruling eliminates any arguable federal circuit court support for a contextual approach, which is contained in BCRA's alternate definitions of "electioneering communication."

Disclosure Requirements on "Electioneering Communications" and Independent Expenditures

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[9] *Cf. FEC v. Christian Action Network*, 110 F.3d 1049, 1054 (4th Cir. 1997) (*CAN II*) (*Furgatch* contains broad dicta, but the Fourth Circuit summarized the narrower *holding* of *Furgatch* as: "where political communications . . . include an explicit directive to voters to take some [unclear] course of action, . . . 'context' . . . may be considered in determining whether the action urged is the election or defeat of a . . . candidate . . . .").

The district court held BCRA § 212 (disclosure of independent expenditures) nonjusticiable and largely upheld § 201 (disclosure of "electioneering communications"). Both provisions require reporting to the FEC of "disbursements" and "expenditures" when contracted for rather than when they are made – and regardless whether the service contracted for is ever provided and, in fact, the independent expenditure or electioneering communication is actually communicated. They are thus significantly different than the reporting requirements this Court upheld in *Buckley*, 424 U.S. at 76-82, which required only disclosure of communications actually made.

Further, the disclosure provisions are not narrowly drawn to serve any compelling governmental interest. Though the government may have an interest in assuring that the electorate is informed of the source of expenditures made on behalf of candidates, there no such interest at stake unless these expenditures are, in fact, made. In the absence of an actual communication, there is no expenditure made on behalf of a candidate. Moreover, prior disclosure requirements would often result in prior notice to political opponents of political and media strategies, thereby chilling and effectively penalizing free speech. The prospect of chilled free speech or harassment of those with whom entities contract, for example, for media services, renders these provisions justiciable even in the absence of immediate harm.

Extent of the District Court's Injunction

JMC Appellants filed *Madison Center Plaintiffs' Motion to Alter or Amend the Judgment* in the district court, which was denied on May 19, 2003. *See* App. 87a. JMC Appellants appeal denial of that Order insofar as it denied JMC Appellants'

request to explicitly extend the district court's injunction against the Defendants by ordering that the Defendants be enjoined from enforcing any unconstitutional BCRA provision against the Plaintiffs anywhere in the United States.

It is the policy of the FEC and the position that they have adopted in other similar cases that FEC rules and regulations that have been struck down in one jurisdiction will nevertheless be enforced by the FEC in other jurisdictions.[10] *See VSHL*, 263 F.3d 379, 382 (4th Cir. 2001); *Right to Life of Dutchess County, Inc. v. FEC*, 6 F. Supp. 2d 248, 252-53 (S.D. N.Y. 1998). Under this policy, the district court's judgment would bind the FEC only in the District of Columbia, leaving the FEC free to enforce enjoined BCRA provisions in other jurisdictions.

The FEC policy and the *VSHL* holding are in error. Under 5 U.S.C. § 706(2)(A), agency action can be entirely set aside if it is "not in accord with the law," including agency action found "contrary to constitutional right." 5 U.S.C. § 706 (2)(B). This justifies injunctive relief beyond the scope of any particular jurisdiction, especially when First Amendment rights are at issue and the "very existence [of a statute] may cause others not before the court to refrain from constitutionally protected speech or expression." *Broadrick v. Oklahoma*, 413 U.S. 601, 612 (1973).

In view of FEC policy, the state of the law, and the silence of the district court on the geographical scope of its injunction, JMC Appellants have every reason to believe that the FEC

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[10]Similarly, the "FEC has in the past prosecuted groups in the judicial districts where they distributed advertising materials, as opposed to the states where they are chartered or headquartered." *VSHL*, 263 F.3d at 389 (citing *FEC v. Pub. Citizen, Inc.*, 64 F. Supp. 2d 1327 (N.D. Ga. 1999); *FEC v. Nat'l Conservative Political Action Comm.*, 647 F. Supp. 987 (S.D. N.Y. 1986)).

would, consistent with its policy, enforce provisions of BCRA outside the District of Columbia absent a nationwide injunction.

As an Act of Congress, BCRA applies nationwide, so any of its provisions held unconstitutional should be also enjoined nationwide. In addition, BCRA § 403(1) provides that suit for declaratory and injunctive relief may only be brought in the United States District Court for the District of Columbia. Thus, there can be no protection from other courts from the FEC's enforcement actions in jurisdictions beyond the District of Columbia. JMC Appellants therefore request this Court to reverse the decision of the district court denying their Motion to Alter or Amend and to direct the district court on remand to enjoin the FEC from enforcing any BCRA provision held unconstitutional anywhere in the United States.

Article III Standing of Congressional Intervenors

Senator John McCain, Sen. Russell Feingold, Rep. Christopher Shays, Rep. Martin Meehan, Sen. Olympia Snowe, and Sen. James Jeffords (Intervenors) intervened under Fed. R. Civ. P. 24(a)(1), invoking BCRA § 403(b) ("any member of the House of Representatives . . . or Senate shall have the right to intervene either in support or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment").

Applying BCRA § 403 does not, however, answer the separate question of whether all intervenors must have Article III standing, a matter this Court has not addressed. *See Arizonans for Official English v. Arizona*, 520 U.S. 43, 66 (1977) (expressing "grave doubts whether the [initiative sponsors] have standing under Article III to pursue appellate review"); *Diamond v. Charles*, 476 U.S. 54, 68-69 and n.21 (1986) (an intervenor may not appeal, or continue a suit, without the party on whose side intervention was permitted, unless intervenor has Article III standing).

Intervenors must satisfy both constitutional and prudential requirements for standing. *See, e.g., National Credit Union Admin. v. First National Bank & Trust Co.*, 522 U.S. 1146 (1998); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). Section 403(b), by permitting members of Congress to intervene, removes any prudential standing concerns. *Raines v. Byrd*, 521 U.S. 811, 820 n. 3 (1997) ("Congress's decision to grant a particular plaintiff the right to challenge an act's constitutionality . . . eliminates any prudential standing limitations and significantly lessens the risk of unwanted conflict with the Legislative Branch when the plaintiff brings suit."). However, "Congress cannot erase Article III's standing requirements by statutorily granting the right to sue a plaintiff who would not otherwise have standing." *Id.* at 820 n. 3. This Court has long held that Congressional power to create standing is, at least in theory, subject to the limitations of Article III. *See, e.g., Warth v. Seldin*, 422 U.S. 49 (1975); *Linda R.S. v. Richard D.*, 410 U.S. 64 (1973). Thus, Article III's injury in fact requirement functions as a limit on Congress' power to confer standing. *See Lujan*, 504 U.S. at 580-81 (Kennedy, J., concurring); *Common Cause v. FEC*, 108 F.3d 413, 418 (D.C. Cir. 1997).

Intervenors do not satisfy Article III standing requirements. First, they do not satisfy the requirement that suffer an "injury in fact" consisting of an "invasion of a legally protected interest which is (a) concrete and particularized . . .and (b) actual or imminent." *Lujan*, 504 U.S. 560 (internal quotations and citations omitted). A generalized, abstract interest as members of a regulated class of legislators or as citizens participating in the political process is insufficiently concrete and particularized to grant them Article III standing.

Voters' "concern for the corruption of the political process is not only widely shared, but is also an abstract and indefinite nature, comparable to the common concern for obedience of the

law." *Becker v. FEC*, 230 F.3d 381, 390 (1st Cir. 2000). *See also Chiglo v. City of Preston*, 104 F3d. 185, 187 (1997); *Hoffman v. Jeffords*, 175 F. Supp.2d 49, 55 (D.D.C. 2001). Likewise, this Court has held that individual members of Congress lacked standing to challenge the constitutionality of legislation, although the federal Line Item Veto Act provided that any member might bring suit, because the members had alleged no cognizable injuries to themselves, and their claimed institutional injury was widely dispersed and abstract. *Raines*, 521 U.S. at 829. *See also, e.g., Roe v. Casey*, 464 F. Supp. 486, 48 (E.D. Pa. 1978), *aff'd*, 623 F.2d 829 (3d Cir. 1980) (in constitutional challenge to statute, a legislator as member of Assembly and co-sponsor had no legally protectable interest).

Second, the Intervenors lack Article III standing because there is no causal connection between their "injury"and the conduct complained of. *Lujan*, 504 U.S. at 560-61. Any injury suffered by a holding that BCRA is unconstitutional would simply mean that the Intervener would have to continue to campaign in the absence of BCRA and within the established, relatively unregulated, system of election finance control. However, "[i]n those cases where a plaintiff's asserted injury arises from the government's allegedly unlawful regulation (*or lack of regulation*) of someone else, it is substantially more difficult to establish injury in fact, for in such cases one or more of the essential elements of standing depends on the unfettered choices made by independent actors not before the courts and whose exercise of broad and legitimate discretion the courts cannot presume either to control or to predict." *Common Cause v. FEC*, 108 F.3d 412, 417 (D.C. Cir. 1997) (quotations and citations omitted) (emphasis added).

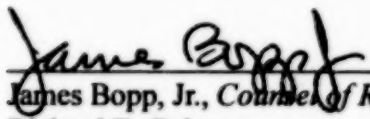
Thus, whether the Intervenors lack Article III standing is in itself a plainly substantial question that warrants review by this Court.

Moreover, there is a conflict of circuits with regard to this matter that this Court ought properly to resolve. Several circuit courts require that interveners must have Article III standing. *Planned Parenthood of Mid-Missouri and Eastern Kansas, Inc. v. Ehlmann*, 137 F.3d 573, 576-77 (8th Cir. 1998); *Solid Waste Agency v. U.S. Army Corps of Eng'rs*, 101 F.3d 503, 507 (7th Cir. 1996); *Mausolf v. Babbit*, 85 F.3d 1295, 1300 (8th Cir. 1996); *Building and Constr. Trades Dept., AFL-CIO v. Reich*, 40 F.3d 1275, 1282 (D.C. Cir.1994). One circuit has stated that intervention under Rule 24 requires more of an interest than that required by Article III analysis. *United States v. 36.96 Acres of Land*, 754 F.2d 855, 859 (7th Cir.1985). But at least three other circuits do not require Article III standing for intervention. *United States Postal Serv. v. Brennan*, 579 F.2d 188, 190 (2d Cir.1978); *Associated Builders & Contractors v. Perry*, 16 F.3d 688, 690 (6th Cir.1994); *Yniguez v. State of Arizona*, 939 F.2d 727, 731 (9th Cir.1991).

Conclusion

For the foregoing reasons, the Court should note probable jurisdiction.

Respectfully submitted,



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APPENDIX A

NOTICE OF APPEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, et al.,	)	
Plaintiffs,	)	
v.	)	Case No. 02-0582 (CKK, KLH, RJL)
FEDERAL ELECTION COMMISSION, et al.,	)	
Defendants.	)	

Madison Center Plaintiffs' Notice of Appeal

Madison Center Plaintiffs U.S. Representative Mike Pence, Alabama Attorney General Bill Pryor, Libertarian National Committee, Inc., Club for Growth, Inc., Indiana Family Institute, Inc., National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, and National Right to Life Political Action Committee hereby give notice that they appeal to the United States Supreme Court from the final judgment entered in this and consolidated actions on May 2, 2003.

Respectfully submitted,

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APPENDIX B

OPINION OF THE DISTRICT COURT

The opinions of the district court are reported at 2003 WL 2010983, 21003118, 21003103, and 21003124 (D.D.C. May 1, 2003). Pursuant to the Court's May 15, 2003, Order, the James Madison Center for Free Speech Appellants anticipate jointly filing an appendix containing the opinions of the district court.

APPENDIX C

UNITED STATES CONSTITUTION
ARTICLE I, SECTION 4

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such meeting shall be on the first Monday in December, unless they shall by Law appoint a different day.

APPENDIX D

UNITED STATES CONSTITUTION
AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

APPENDIX E

UNITED STATES CONSTITUTION
AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

APPENDIX F

BIPARTISAN CAMPAIGN REFORM ACT OF 2002
PUB. L. NO. 107-155, 166 STAT. 81

[March 27, 2002]

An Act To amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE. — This Act may be cited as the "Bipartisan Campaign Reform Act of 2002".

(b) TABLE OF CONTENTS. — The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I — REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.

Sec. 102. Increased contribution limit for State committees of political parties.

Sec. 103. Reporting requirements.

TITLE II — NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A — Electioneering Communications

Sec. 201. Disclosure of electioneering communications.

Sec. 202. Coordinated communications as contributions.

Sec. 203. Prohibition of corporate and labor disbursements for electioneering communications.

Sec. 204. Rules relating to certain targeted electioneering communications.

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Sec. 316. Restriction on increased contribution limits by taking into account candidate's available funds.

Sec. 317. Clarification of right of nationals of the United States to make political contributions.

Sec. 318. Prohibition of contributions by minors.

Sec. 319. Modification of individual contribution limits for House candidates in response to expenditures from personal funds.

TITLE IV — SEVERABILITY; EFFECTIVE DATE

Sec. 401. Severability.

Sec. 402. Effective dates and regulations.

Sec. 403. Judicial review.

TITLE V — ADDITIONAL DISCLOSURE PROVISIONS

Sec. 501. Internet access to records.

Sec. 502. Maintenance of website of election reports.

Sec. 503. Additional disclosure reports.

Sec. 504. Public access to broadcasting records.

TITLE I — REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

(a) IN GENERAL. — Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES. —

"(1) IN GENERAL. — A national committee of a political party (including a national congressional campaign committee

of a political party) may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY. — The prohibition established by paragraph (1) applies to any such national committee, any officer or agent acting on behalf of such a national committee, and any entity that is directly or indirectly established, financed, maintained, or controlled by such a national committee.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES. —

"(1) IN GENERAL. — Except as provided in paragraph (2), an amount that is expended or disbursed for Federal election activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an association or similar group of candidates for State or local office or of individuals holding State or local office, shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY. —

"(A) IN GENERAL. — Notwithstanding clause (i) or (ii) of section 301(20)(A), and subject to subparagraph (B), paragraph (1) shall not apply to any amount expended or disbursed by a State, district, or local committee of a political party for an activity described in either such clause to the extent the amounts expended or disbursed for such activity are allocated (under regulations prescribed by the Commission) among amounts —

"(i) which consist solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act (other than amounts described in subparagraph (B)(iii)); and

"(ii) other amounts which are not subject to the limitations, prohibitions, and reporting requirements of this Act (other than any requirements of this subsection).

"(B) CONDITIONS. — Subparagraph (A) shall only apply if —

"(i) the activity does not refer to a clearly identified candidate for Federal office;

"(ii) the amounts expended or disbursed are not for the costs of any broadcasting, cable, or satellite communication, other than a communication which refers solely to a clearly identified candidate for State or local office;

"(iii) the amounts expended or disbursed which are described in subparagraph (A)(ii) are paid from amounts which are donated in accordance with State law and which meet the requirements of subparagraph (C), except that no person (including any person established, financed, maintained, or controlled by such person) may donate more than $10,000 to a State, district, or local committee of a political party in a calendar year for such expenditures or disbursements; and

"(iv) the amounts expended or disbursed are made solely from funds raised by the State, local, or district committee which makes such expenditure or disbursement, and do not include any funds provided to such committee from —

"(I) any other State, local, or district committee of any State party,

"(II) the national committee of a political party (including a national congressional campaign committee of a political party),

"(III) any officer or agent acting on behalf of any committee described in subclause (I) or (II), or

"(IV) any entity directly or indirectly established, financed, maintained, or controlled by any committee described in subclause (I) or (II).

"(C) PROHIBITING INVOLVEMENT OF NATIONAL PARTIES, FEDERAL CANDIDATES AND OFFICEHOLDERS, AND STATE PARTIES ACTING JOINTLY. — Notwithstanding subsection (e) (other than subsection (e)(3)), amounts specifically authorized to be spent under subparagraph (B)(iii) meet the requirements of this subparagraph only if the amounts —

"(i) are not solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e); and

"(ii) are not solicited, received, or directed through fundraising activities conducted jointly by 2 or more State, local, or district committees of any political party or their agents, or by a State, local, or district committee of a political party on behalf of the State, local, or district committee of a political party or its agent in one or more other States.

"(c) FUNDRAISING COSTS. — An amount spent by a person described in subsection (a) or (b) to raise funds that are used, in whole or in part, for expenditures and disbursements for a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) TAX-EXEMPT ORGANIZATIONS. — A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to —

"(1) an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such

section) and that makes expenditures or disbursements in connection with an election for Federal office (including expenditures or disbursements for Federal election activity); or

"(2) an organization described in section 527 of such Code (other than a political committee, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).

"(e) FEDERAL CANDIDATES. —

"(1) IN GENERAL. — A candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office, shall not —

"(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

"(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds —

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1), (2), and (3) of section 315(a); and

"(ii) are not from sources prohibited by this Act from making contributions in connection with an election for Federal office.

"(2) STATE LAW. — Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual described in such paragraph who is or was also a candidate for a State or local office solely in connection with such election for

State or local office if the solicitation, receipt, or spending of funds is permitted under State law and refers only to such State or local candidate, or to any other candidate for the State or local office sought by such candidate, or both.

"(3) FUNDRAISING EVENTS. — Notwithstanding paragraph (1) or subsection (b)(2)(C), a candidate or an individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.

"(4) PERMITTING CERTAIN SOLICITATIONS. —

"(A) GENERAL SOLICITATIONS. — Notwithstanding any other provision of this subsection, an individual described in paragraph (1) may make a general solicitation of funds on behalf of any organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) (other than an entity whose principal purpose is to conduct activities described in clauses (i) and (ii) of section 301(20)(A)) where such solicitation does not specify how the funds will or should be spent.

"(B) CERTAIN SPECIFIC SOLICITATIONS. — In addition to the general solicitations permitted under subparagraph (A), an individual described in paragraph (1) may make a solicitation explicitly to obtain funds for carrying out the activities described in clauses (i) and (ii) of section 301(20)(A), or for an entity whose principal purpose is to conduct such activities, if —

"(i) the solicitation is made only to individuals; and

"(ii) the amount solicited from any individual during any calendar year does not exceed $20,000.

"(f) STATE CANDIDATES. —

"(1) IN GENERAL. — A candidate for State or local office, individual holding State or local office, or an agent of such a candidate or individual may not spend any funds for a communication described in section 301(20)(A)(iii) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCEPTION FOR CERTAIN COMMUNICATIONS. — Paragraph (1) shall not apply to an individual described in such paragraph if the communication involved is in connection with an election for such State or local office and refers only to such individual or to any other candidate for the State or local office held or sought by such individual, or both."

(b) DEFINITIONS. — Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) FEDERAL ELECTION ACTIVITY. —

"(A) IN GENERAL. — The term 'Federal election activity' means —

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);

"(iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office

(regardless of whether the communication expressly advocates a vote for or against a candidate); or

"(iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

"(B) EXCLUDED ACTIVITY. — The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for —

"(i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention; and

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

"(21) GENERIC CAMPAIGN ACTIVITY. — The term 'generic campaign activity' means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.

"(22) PUBLIC COMMUNICATION. — The term 'public communication' means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

"(23) MASS MAILING. — The term 'mass mailing' means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

"(24) TELEPHONE BANK. — The term 'telephone bank' means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period."

SEC. 102. INCREASED CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.

Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended —

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C) —

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000."

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS. — Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"(e) POLITICAL COMMITTEES. —

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES. — The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES. —

"(A) IN GENERAL. — In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in section 301(20)(A), unless the aggregate amount of such receipts and disbursements during the calendar year is less than $5,000.

"(B) SPECIFIC DISCLOSURE BY STATE AND LOCAL PARTIES OF CERTAIN NON-FEDERAL AMOUNTS PERMITTED TO BE SPENT ON FEDERAL ELECTION ACTIVITY. — Each report by a political committee under subparagraph (A) of receipts and disbursements made for activities described in section 301(20)(A) shall include a disclosure of all receipts and disbursements described in section 323(b)(2)(A) and (B).

"(3) ITEMIZATION. — If a political committee has receipts or disbursements to which this subsection applies from or to any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) REPORTING PERIODS. — Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B)."

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION. —

(1) IN GENERAL. — Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended —

(A) by striking clause (viii); and

(B) by redesignating clauses (ix) through (xv) as clauses (viii) through (xiv), respectively.

(2) NONPREEMPTION OF STATE LAW. — Section 403 of such Act (2 U.S.C. 453) is amended —

(A) by striking "The provisions of this Act" and inserting:

"(a) IN GENERAL. — Subject to subsection (b), the provisions of this Act"; and

(B) by adding at the end the following:

"(b) STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES. — Notwithstanding any other provision of this Act, a State or local committee of a political party may, subject to State law, use exclusively funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act for the purchase or construction of an office building for such State or local committee."

TITLE II — NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A — Electioneering Communications

SEC. 201. DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL. — Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 103, is amended by adding at the end the following new subsection:

"(f) DISCLOSURE OF ELECTIONEERING COMMUNICATIONS. —

"(1) STATEMENT REQUIRED. — Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of $10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a

statement containing the information described in paragraph (2).

"(2) CONTENTS OF STATEMENT. — Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

"(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

"(B) The principal place of business of the person making the disbursement, if not an individual.

"(C) The amount of each disbursement of more than $200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

"(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

"(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

"(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"(3) ELECTIONEERING COMMUNICATION. — For purposes of this subsection —

"(A) IN GENERAL. — (i) The term 'electioneering communication' means any broadcast, cable, or satellite communication which —

"(I) refers to a clearly identified candidate for Federal office;

"(II) is made within —

"(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

"(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

"(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

"(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term 'electioneering communication' means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to

affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

"(B) EXCEPTIONS. — The term 'electioneering communication' does not include —

"(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

"(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

"(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

"(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 301(20)(A)(iii).

"(C) TARGETING TO RELEVANT ELECTORATE. — For purposes of this paragraph, a communication which refers to a clearly identified candidate for Federal office is 'targeted to the relevant electorate' if the communication can be received by 50,000 or more persons —

"(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

"(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

"(4) DISCLOSURE DATE. — For purposes of this subsection, the term 'disclosure date' means —

"(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000; and

"(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000 since the most recent disclosure date for such calendar year.

"(5) CONTRACTS TO DISBURSE. — For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

"(6) COORDINATION WITH OTHER REQUIREMENTS. — Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

"(7) COORDINATION WITH INTERNAL REVENUE CODE. — Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of the Internal Revenue Code of 1986."

(b) RESPONSIBILITIES OF FEDERAL COMMUNICATIONS COMMISSION. — The Federal Communications Commission shall compile and maintain any information the Federal Election Commission may require to carry out section 304(f) of the Federal Election Campaign Act of 1971 (as added by subsection (a)), and shall make such information available to the public on the Federal Communication Commission's website.

SEC. 202. COORDINATED COMMUNICATIONS AS CONTRIBUTIONS.

Section 315(a)(7) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)) is amended —

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

"(C) if —

"(i) any person makes, or contracts to make, any disbursement for any electioneering communication (within the meaning of section 304(f)(3)); and

"(ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;

such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party; and".

SEC. 203. PROHIBITION OF CORPORATE AND LABOR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL. — Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting "or for any applicable electioneering communication" before ", but shall not include".

(b) APPLICABLE ELECTIONEERING COMMUNICATION. — Section 316 of such Act is amended by adding at the end the following:

"(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS. —

"(1) APPLICABLE ELECTIONEERING COMMUNICATION. — For purposes of this section, the term 'applicable electioneering communication' means an electioneering communication (within the meaning of section 304(f)(3)) which is made by any entity described in subsection (a) of this section or by any other person using funds donated by an entity described in subsection (a) of this section.

"(2) EXCEPTION. — Notwithstanding paragraph (1), the term 'applicable electioneering communication' does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) made under section 304(f)(2)(E) or (F) of this Act if the communication is paid for exclusively by funds provided directly by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))). For purposes of the preceding sentence, the term 'provided directly by individuals' does not include funds the source of which is an entity described in subsection (a) of this section.

"(3) SPECIAL OPERATING RULES. —

"(A) DEFINITION UNDER PARAGRAPH (1). — An electioneering communication shall be treated as made by an entity described in subsection (a) if an entity described in subsection (a) directly or indirectly disburses any amount for any of the costs of the communication.

"(B) EXCEPTION UNDER PARAGRAPH (2). — A section 501(c)(4) organization that derives amounts from business activities or receives funds from any entity described in subsection (a) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account to which only individuals can contribute, as described in section 304(f)(2)(E).

"(4) DEFINITIONS AND RULES. — For purposes of this subsection —

"(A) the term 'section 501(c)(4) organization' means —

"(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

"(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

"(B) a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

"(5) COORDINATION WITH INTERNAL REVENUE CODE. — Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 to carry out any activity which is prohibited under such Code."

SEC. 204. RULES RELATING TO CERTAIN TARGETED ELECTIONEERING COMMUNICATIONS.

Section 316(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as added by section 203, is amended by adding at the end the following:

"(6) SPECIAL RULES FOR TARGETED COMMUNICATIONS. —

"(A) EXCEPTION DOES NOT APPLY. — Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

"(B) TARGETED COMMUNICATION. — For purposes of subparagraph (A), the term 'targeted communication' means an electioneering communication (as defined in section 304(f)(3)) that is distributed from a television or radio broadcast station or provider of cable or satellite television service and, in

the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

"(C) DEFINITION. — For purposes of this paragraph, a communication is 'targeted to the relevant electorate' if it meets the requirements described in section 304(f)(3)(C)."

Subtitle B — Independent and Coordinated Expenditures

SEC. 211. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE. — The term 'independent expenditure' means an expenditure by a person —

"(A) expressly advocating the election or defeat of a clearly identified candidate; and

"(B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents."

SEC. 212. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) IN GENERAL. — Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 201) is amended —

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C); and

(2) by adding at the end the following:

"(g) TIME FOR REPORTING CERTAIN EXPENDITURES. —

"(1) EXPENDITURES AGGREGATING $1,000. —

"(A) INITIAL REPORT. — A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours.

"(B) ADDITIONAL REPORTS. — After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000. —

"(A) INITIAL REPORT. — A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours.

"(B) ADDITIONAL REPORTS. — After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS. — A report under this subsection —

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose."

(b) TIME OF FILING OF CERTAIN STATEMENTS. —

(1) IN GENERAL. — Section 304(g) of such Act, as added by subsection (a), is amended by adding at the end the following:

"(4) TIME OF FILING FOR EXPENDITURES AGGREGATING $1,000. — Notwithstanding subsection (a)(5), the time at which the statement under paragraph (1) is received by the Commission or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient."

(2) CONFORMING AMENDMENTS. — (A) Section 304(a)(5) of such Act (2 U.S.C. 434(a)(5)) is amended by striking "the second sentence of subsection (c)(2)" and inserting "subsection (g)(1)".

(B) Section 304(d)(1) of such Act (2 U.S.C. 434(d)(1)) is amended by inserting "or (g)" after "subsection (c)".

SEC. 213. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended —

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY. —

"(A) IN GENERAL. — On or after the date on which a political party nominates a candidate, no committee of the political party may make —

"(i) any coordinated expenditure under this subsection with respect to the candidate during the election cycle at any time after it makes any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle; or

"(ii) any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle at any time after it makes any coordinated expenditure under

this subsection with respect to the candidate during the election cycle.

"(B) APPLICATION. — For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(C) TRANSFERS. — A committee of a political party that makes coordinated expenditures under this subsection with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate."

SEC. 214. COORDINATION WITH CANDIDATES OR POLITICAL PARTIES.

(a) IN GENERAL. — Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 44[illegible]a(a)(7)(B)) is amended —

(1) by redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following new clause:

"(ii) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee; and".

(b) REPEAL OF CURRENT REGULATIONS. — The regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and

party committees adopted by the Federal Election Commission and published in the Federal Register at page 76138 of volume 65, Federal Register, on December 6, 2000, are repealed as of the date by which the Commission is required to promulgate new regulations under subsection (c) (as described in section 402(c)(1)).

(c) REGULATIONS BY THE FEDERAL ELECTION COMMISSION. — The Federal Election Commission shall promulgate new regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees. The regulations shall not require agreement or formal collaboration to establish coordination. In addition to any subject determined by the Commission, the regulations shall address —

(1) payments for the republication of campaign materials;

(2) payments for the use of a common vendor;

(3) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party; and

(4) payments for communications made by a person after substantial discussion about the communication with a candidate or a political party.

(d) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316. — Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

TITLE III — MISCELLANEOUS

SEC. 301. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES. — A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual —

"(1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

"(4) for transfers, without limitation, to a national, State, or local committee of a political party.

"(b) PROHIBITED USE. —

"(1) IN GENERAL. — A contribution or donation described in subsection (a) shall not be converted by any person to personal use.

"(2) CONVERSION. — For the purposes of paragraph (1), a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office, including —

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(I) dues, fees, and other payments to a health club or recreational facility."

SEC. 302. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended —

(1) by striking subsection (a) and inserting the following:

"(a) PROHIBITION. —

"(1) IN GENERAL. — It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) PENALTY. — A person who violates this section shall be fined not more than $5,000, imprisoned not more than 3 years, or both.'; and

(2) in subsection (b), by inserting "or Executive Office of the President" after "Congress".

SEC. 303. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended —

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) PROHIBITION. — It shall be unlawful for —

"(1) a foreign national, directly or indirectly, to make —

"(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election;

"(B) a contribution or donation to a committee of a political party; or

"(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 304(f)(3)); or

"(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national."

SEC. 304. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS FOR INDIVIDUALS. — Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended —

(1) in subsection (a)(1), by striking "No person" and inserting "Except as provided in subsection (i), no person"; and

(2) by adding at the end the following:

"(i) INCREASED LIMIT TO ALLOW RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS. —"

"(1) INCREASE. —

"(A) IN GENERAL. — Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the 'applicable limit') with respect to that candidate shall be the increased limit.

"(B) THRESHOLD AMOUNT. —

"(i) STATE-BY-STATE COMPETITIVE AND FAIR CAMPAIGN FORMULA. — In this subsection, the threshold amount with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of —

"(I) $150,000; and

"(II) $0.04 multiplied by the voting age population.

"(ii) VOTING AGE POPULATION. — In this subparagraph, the term 'voting age population' means in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)).

"(C) INCREASED LIMIT. — Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over —

"(i) 2 times the threshold amount, but not over 4 times that amount —

"(I) the increased limit shall be 3 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

"(ii) 4 times the threshold amount, but not over 10 times that amount —

"(I) the increased limit shall be 6 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(iii) 10 times the threshold amount —

"(I) the increased limit shall be 6 times the applicable limit;

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

"(D) OPPOSITION PERSONAL FUNDS AMOUNT. — The opposition personal funds amount is an amount equal to the excess (if any) of —

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT. —

"(A) IN GENERAL. — Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1) —

"(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE. — A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(3) DISPOSAL OF EXCESS CONTRIBUTIONS. —

"(A) IN GENERAL. — The aggregate amount of contributions accepted by a candidate or a candidate's

authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS. — A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS. — Any candidate who incurs personal loans made after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election."

(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS. — Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)) is amended —

(1) by redesignating subparagraph (B) as subparagraph (E); and

(2) by inserting after subparagraph (A) the following:

"(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS. —

"(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS. — In this subparagraph, the term 'expenditure from personal funds' means —

"(I) an expenditure made by a candidate using personal funds; and

"(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(ii) DECLARATION OF INTENT. — Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with —

"(I) the Commission; and

"(II) each candidate in the same election.

"(iii) INITIAL NOTIFICATION. — Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with —

"(I) the Commission; and

"(II) each candidate in the same election.

"(iv) ADDITIONAL NOTIFICATION. — After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed $10,000 with —

"(I) the Commission; and

"(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

"(v) CONTENTS. — A notification under clause (iii) or (iv) shall include —

"(I) the name of the candidate and the office sought by the candidate;

"(II) the date and amount of each expenditure; and

"(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS. — In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(*i*)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(D) ENFORCEMENT. — For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309."

(c) DEFINITIONS. — Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 101(b), is further amended by adding at the end the following:

"(25) ELECTION CYCLE. — For purposes of sections 315(*i*) and 315A and paragraph (26), the term 'election cycle' means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

"(26) PERSONAL FUNDS. — The term 'personal funds' means an amount that is derived from —

"(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had —

"(i) legal and rightful title; or

"(ii) an equitable interest;

"(B) income received during the current election cycle of the candidate, including —

"(i) a salary and other earned income from bona fide employment;

"(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

"(iii) bequests to the candidate;

"(iv) income from trusts established before the beginning of the election cycle;

"(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

"(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

"(vii) proceeds from lotteries and similar legal games of chance; and

"(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of 1/2 of the property."

SEC. 305. LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL. — Section 315(b) of the Communications Act of 1934 (47 U.S. C. 315(b)) is amended —

(1) by striking "(b) The charges" and inserting the following:

"(b) CHARGES. —

"(1) IN GENERAL. — The charges";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following:

"(2) CONTENT OF BROADCASTS. —

"(A) IN GENERAL. — In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

"(B) LIMITATION ON CHARGES. — If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

"(C) TELEVISION BROADCASTS. — A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds —

"(i) a clearly identifiable photographic or similar image of the candidate; and

"(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

"(D) RADIO BROADCASTS. — A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

"(E) CERTIFICATION. — Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

"(F) DEFINITIONS. — For purposes of this paragraph, the terms 'authorized committee' and 'Federal office' have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)."

(b) CONFORMING AMENDMENT. — Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting "subject to paragraph (2)," before "during the forty-five days".

(c) EFFECTIVE DATE. — The amendments made by this section shall apply to broadcasts made after the effective date of this Act.

SEC. 306. SOFTWARE FOR FILING REPORTS AND PROMPT DISCLOSURE OF CONTRIBUTIONS.

Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end the following:

"(12) SOFTWARE FOR FILING OF REPORTS. —

"(A) IN GENERAL. — The Commission shall —

"(i) promulgate standards to be used by vendors to develop software that —

"(I) permits candidates to easily record information concerning receipts and disbursements required to be reported under this Act at the time of the receipt or disbursement;

"(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

"(III) allows the Commission to post the information on the Internet immediately upon receipt; and

"(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

"(B) ADDITIONAL INFORMATION. — To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

"(C) REQUIRED USE. — Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate's authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

"(D) REQUIRED POSTING. — The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph."

SEC. 307. MODIFICATION OF CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL LIMITS FOR CERTAIN CONTRIBUTIONS. — Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended —

(1) in subparagraph (A), by striking "$1,000" and inserting "$2,000"; and

(2) in subparagraph (B), by striking "$20,000" and inserting "$25,000".

(b) INCREASE IN ANNUAL AGGREGATE LIMIT ON INDIVIDUAL CONTRIBUTIONS. — Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended to read as follows:

"(3) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than —

"(A) $37,500, in the case of contributions to candidates and the authorized committees of candidates;

"(B) $57,500, in the case of any other contributions, of which not more than $37,500 may be attributable to contributions to political committees which are not political committees of national political parties."

(c) INCREASE IN SENATORIAL CAMPAIGN COMMITTEE LIMIT. — Section 315(h) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(h)) is amended by striking "$17,500" and inserting "$35,000".

(d) INDEXING OF CONTRIBUTION LIMITS. — Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended —

(1) in paragraph (1) —

(A) by striking the second and third sentences;

(B) by inserting "(A)" before "At the beginning"; and

(C) by adding at the end the following:

"(B) Except as provided in subparagraph (C), in any calendar year after 2002 —

"(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

"(ii) each amount so increased shall remain in effect for the calendar year; and

"(iii) if any amount after adjustment under clause (i) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

"(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election."; and

(2) in paragraph (2)(B), by striking "means the calendar year 1974" and inserting "means —

"(i) for purposes of subsections (b) and (d), calendar year 1974; and

"(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), calendar year 2001".

(e) EFFECTIVE DATE. — The amendments made by this section shall apply with respect to contributions made on or after January 1, 2003.

SEC. 308. DONATIONS TO PRESIDENTIAL INAUGURAL COMMITTEE.

(a) IN GENERAL. — Chapter 5 of title 36, United States Code, is amended by —

(1) redesignating section 510 as section 511; and

(2) inserting after section 509 the following:

"§ 510. Disclosure of and prohibition on certain donations

"(a) IN GENERAL. — A committee shall not be considered to be the Inaugural Committee for purposes of this chapter unless the committee agrees to, and meets, the requirements of subsections (b) and (c).

"(b) DISCLOSURE. —

"(1) IN GENERAL. — Not later than the date that is 90 days after the date of the Presidential inaugural ceremony, the committee shall file a report with the Federal Election Commission disclosing any donation of money or anything of value made to the committee in an aggregate amount equal to or greater than $200.

"(2) CONTENTS OF REPORT. — A report filed under paragraph (1) shall contain —

"(A) the amount of the donation;

"(B) the date the donation is received; and

"(C) the name and address of the person making the donation.

"(c) LIMITATION. — The committee shall not accept any donation from a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b))."

(b) REPORTS MADE AVAILABLE BY FEC. — Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 103, 201, and 212 is amended by adding at the end the following:

"(h) REPORTS FROM INAUGURAL COMMITTEES. — The Federal Election Commission shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission."

SEC. 309. PROHIBITION ON FRAUDULENT SOLICITATION OF FUNDS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended —

(1) by inserting "(a) IN GENERAL. —" before "No person"; and

(2) by adding at the end the following:

"(b) FRAUDULENT SOLICITATION OF FUNDS. — No person shall —

"(1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or

"(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1)."

SEC. 310. STUDY AND REPORT ON CLEAN MONEY CLEAN ELECTIONS LAWS.

(a) CLEAN MONEY CLEAN ELECTIONS DEFINED. — In this section, the term "clean money clean elections" means funds received under State laws that provide in whole or in part for the public financing of election campaigns.

(b) STUDY. —

(1) IN GENERAL. — The Comptroller General shall conduct a study of the clean money clean elections of Arizona and Maine.

(2) MATTERS STUDIED. —

(A) STATISTICS ON CLEAN MONEY CLEAN ELECTIONS CANDIDATES. — The Comptroller General shall determine —

(i) the number of candidates who have chosen to run for public office with clean money clean elections including —

(I) the office for which they were candidates;

(II) whether the candidate was an incumbent or a challenger; and

(III) whether the candidate was successful in the candidate's bid for public office; and

(ii) the number of races in which at least one candidate ran an election with clean money clean elections.

(B) EFFECTS OF CLEAN MONEY CLEAN ELECTIONS. — The Comptroller General of the United States shall describe the effects of public financing under the clean money clean elections laws on the 2000 elections in Arizona and Maine.

(c) REPORT. — Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress detailing the results of the study conducted under subsection (b).

SEC. 311. CLARITY STANDARDS FOR IDENTIFICATION OF SPONSORS OF ELECTION-RELATED ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended —

(1) in subsection (a) —

(A) in the matter preceding paragraph (1) —

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement";

(iii) by striking "direct"; and

(iv) by inserting "or makes a disbursement for an electioneering communication (as defined in section 304(f)(3))" after "public political advertising"; and

(B) in paragraph (3), by inserting "and permanent street address, telephone number, or World Wide Web address" after "name"; and

(2) by adding at the end the following:

"(c) SPECIFICATION. — Any printed communication described in subsection (a) shall —

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d) ADDITIONAL REQUIREMENTS. —

"(1) COMMUNICATIONS BY CANDIDATES OR AUTHORIZED PERSONS. —

"(A) BY RADIO. — Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through radio shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(B) BY TELEVISION. — Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through television shall include, in addition to the requirements of that paragraph, a statement that identifies the candidate and

states that the candidate has approved the communication. Such statement —

"(i) shall be conveyed by —

"(I) an unobscured, full-screen view of the candidate making the statement, or

"(II) the candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate; and

"(ii) shall also appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

"(2) COMMUNICATIONS BY OTHERS. — Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following audio statement: '_____ is responsible for the content of this advertising.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall be conveyed by an unobscured, full-screen view of a representative of the political committee or other person making the statement, or by a representative of such political committee or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds."

SEC. 312. INCREASE IN PENALTIES.

(a) IN GENERAL. — Subparagraph (A) of section 309(d)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

"(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure —

"(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

"(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both."

(b) EFFECTIVE DATE. — The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 313. STATUTE OF LIMITATIONS.

(a) IN GENERAL. — Section 406(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 455(a)) is amended by striking "3" and inserting "5".

(b) EFFECTIVE DATE. — The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 314. SENTENCING GUIDELINES.

(a) IN GENERAL. — The United States Sentencing Commission shall —

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Election Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Election Campaign Act of 1971 and related election laws.

(b) CONSIDERATIONS. — The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves —

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Federal Government.

(3) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(4) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(5) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EFFECTIVE DATE; EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES. —

(1) EFFECTIVE DATE. — Notwithstanding section 402, the United States Sentencing Commission shall promulgate guidelines under this section not later than the later of —

(A) 90 days after the effective date of this Act; or

(B) 90 days after the date on which at least a majority of the members of the Commission are appointed and holding office.

(2) EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES. — The Commission shall promulgate guidelines under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under such Act has not expired.

SEC. 315. INCREASE IN PENALTIES IMPOSED FOR VIOLATIONS OF CONDUIT CONTRIBUTION BAN.

(a) INCREASE IN CIVIL MONEY PENALTY FOR KNOWING AND WILLFUL VIOLATIONS. — Section 309(a) of the Federal Election Campaign Act of 1971 (2 U. S.C. 437g(a)) is amended —

(1) in paragraph (5)(B), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation)"; and

(2) in paragraph (6)(C), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation)".

(b) INCREASE IN CRIMINAL PENALTY. — Section 309(d)(1) of such Act (2 U.S.C. 437g(d)(1)) is amended by adding at the end the following new subparagraph:

"(D) Any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating more than $10,000 during a calendar year shall be —

"(i) imprisoned for not more than 2 years if the amount is less than $25,000 (and subject to imprisonment under subparagraph (A) if the amount is $25,000 or more);

"(ii) fined not less than 300 percent of the amount involved in the violation and not more than the greater of —

"(I) $50,000; or

"(II) 1,000 percent of the amount involved in the violation; or

"(iii) both imprisoned under clause (i) and fined under clause (ii)."

(c) EFFECTIVE DATE. — The amendments made by this section shall apply with respect to violations occurring on or after the effective date of this Act.

SEC. 316. RESTRICTION ON INCREASED CONTRIBUTION LIMITS BY TAKING INTO ACCOUNT CANDIDATE'S AVAILABLE FUNDS.

Section 315(i)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(i)(1)), as added by this Act, is amended by adding at the end the following:

"(E) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS. —

"(i) IN GENERAL. — For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE. — For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of —

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the

election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held."

SEC. 317. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting after "United States" the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)".

SEC. 318. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"PROHIBITION OF CONTRIBUTIONS BY MINORS

"SEC. 324. An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party."

SEC. 319. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS. — Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is

amended by inserting after section 315 the following new section:

"MODIFICATION OF CERTAIN LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO

PERSONAL FUND EXPENDITURES OF OPPONENTS

"SEC. 315A. (a) AVAILABILITY OF INCREASED LIMIT. —

"(1) IN GENERAL. — Subject to paragraph (3), if the opposition personal funds amount with respect to a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress exceeds $350,000 —

"(A) the limit under subsection (a)(1)(A) with respect to the candidate shall be tripled;

"(B) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to the candidate if the contribution is made under the increased limit allowed under subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(C) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party on behalf of the candidate shall not apply.

"(2) DETERMINATION OF OPPOSITION PERSONAL FUNDS AMOUNT. —

"(A) IN GENERAL. — The opposition personal funds amount is an amount equal to the excess (if any) of —

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in subsection (b)(1)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(B) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS. —

"(i) IN GENERAL. — For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (A), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE. — For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of —

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

"(3) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT. —

"(A) IN GENERAL. — Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1) —

"(i) until the candidate has received notification of the opposition personal funds amount under subsection (b)(1); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits

under this subsection for the election cycle, exceeds 100 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE. — A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(4) DISPOSAL OF EXCESS CONTRIBUTIONS. —

"(A) IN GENERAL. — The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS. — A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS. —

"(1) IN GENERAL. —

"(A) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS. — In this paragraph, the term 'expenditure from personal funds' means —

"(i) an expenditure made by a candidate using personal funds; and

"(ii) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(B) DECLARATION OF INTENT. — Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed $350,000.

"(C) INITIAL NOTIFICATION. — Not later than 24 hours after a candidate described in subparagraph (B) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of $350,000 in connection with any election, the candidate shall file a notification.

"(D) ADDITIONAL NOTIFICATION. — After a candidate files an initial notification under subparagraph (C), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceeds $10,000. Such notification shall be filed not later than 24 hours after the expenditure is made.

"(E) CONTENTS. — A notification under subparagraph (C) or (D) shall include —

"(i) the name of the candidate and the office sought by the candidate;

"(ii) the date and amount of each expenditure; and

"(iii) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(F) PLACE OF FILING. — Each declaration or notification required to be filed by a candidate under subparagraph (C), (D), or (E) shall be filed with —

"(i) the Commission; and

"(ii) each candidate in the same election and the national party of each such candidate.

"(2) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS. — In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under subsection (a)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(3) ENFORCEMENT. — For provisions providing for the enforcement of the reporting requirements under this subsection, see section 309."

(b) CONFORMING AMENDMENT. — Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 304(a), is amended by striking "subsection (i)," and inserting "subsection (i) and section 315A,".

TITLE IV — SEVERABILITY; EFFECTIVE DATE

SEC. 401. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 402. EFFECTIVE DATES AND REGULATIONS.

(a) GENERAL EFFECTIVE DATE. —

(1) IN GENERAL. — Except as provided in the succeeding provisions of this section, the effective date of this Act, and the amendments made by this Act, is November 6, 2002.

(2) MODIFICATION OF CONTRIBUTION LIMITS. — The amendments made by —

(A) section 102 shall apply with respect to contributions made on or after January 1, 2003; and

(B) section 307 shall take effect as provided in subsection (e) of such section.

(3) SEVERABILITY; EFFECTIVE DATES AND REGULATIONS; JUDICIAL REVIEW. — Title IV shall take effect on the date of enactment of this Act.

(4) PROVISIONS NOT TO APPLY TO RUNOFF ELECTIONS. — Section 323(b) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), section 103(a), title II, sections 304 (including section 315(j) of Federal Election Campaign Act of 1971, as added by section 304(a)(2)), 305 (notwithstanding subsection (c) of such section), 311, 316, 318, and 319, and title V (and the amendments made by such sections and titles) shall take effect on November 6, 2002, but shall not apply with respect to runoff elections, recounts, or election contests resulting from elections held prior to such date.

(b) SOFT MONEY OF NATIONAL POLITICAL PARTIES. —

(1) IN GENERAL. — Except for subsection (b) of such section, section 323 of the Federal Election Campaign Act of 1971 (as added by section 101(a)) shall take effect on November 6, 2002.

(2) TRANSITIONAL RULES FOR THE SPENDING OF SOFT MONEY OF NATIONAL POLITICAL PARTIES. —

(A) IN GENERAL. — Notwithstanding section 323(a) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), if a national committee of a political party described in such section (including any person who is subject to such section under paragraph (2) of such section), has

received funds described in such section prior to November 6, 2002, the rules described in subparagraph (B) shall apply with respect to the spending of the amount of such funds in the possession of such committee as of such date.

(B) USE OF EXCESS SOFT MONEY FUNDS. —

(i) IN GENERAL. — Subject to clauses (ii) and (iii), the national committee of a political party may use the amount described in subparagraph (A) prior to January 1, 2003, solely for the purpose of —

(I) retiring outstanding debts or obligations that were incurred solely in connection with an election held prior to November 6, 2002; or

(II) paying expenses or retiring outstanding debts or paying for obligations that were incurred solely in connection with any runoff election, recount, or election contest resulting from an election held prior to November 6, 2002.

(ii) PROHIBITION ON USING SOFT MONEY FOR HARD MONEY EXPENSES, DEBTS, AND OBLIGATIONS. — A national committee of a political party may not use the amount described in subparagraph (A) for any expenditure (as defined in section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9))) or for retiring outstanding debts or obligations that were incurred for such an expenditure.

(iii) PROHIBITION OF BUILDING FUND USES. — A national committee of a political party may not use the amount described in subparagraph (A) for activities to defray the costs of the construction or purchase of any office building or facility.

(c) REGULATIONS. —

(1) IN GENERAL. — Except as provided in paragraph (2), the Federal Election Commission shall promulgate regulations to carry out this Act and the amendments made by this Act that are under the Commission's jurisdiction not later than 270 days after the date of enactment of this Act.

(2) SOFT MONEY OF POLITICAL PARTIES. — Not later than 90 days after the date of enactment of this Act, the Federal Election Commission shall promulgate regulations to carry out title I of this Act and the amendments made by such title.

SEC. 403. JUDICIAL REVIEW.

(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS. — If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) INTERVENTION BY MEMBERS OF CONGRESS. — In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or Senate

shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) CHALLENGE BY MEMBERS OF CONGRESS. — Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(d) APPLICABILITY. —

(1) INITIAL CLAIMS. — With respect to any action initially filed on or before December 31, 2006, the provisions of subsection (a) shall apply with respect to each action described in such section.

(2) SUBSEQUENT ACTIONS. — With respect to any action initially filed after December 31, 2006, the provisions of subsection (a) shall not apply to any action described in such section unless the person filing such action elects such provisions to apply to the action.

TITLE V — ADDITIONAL DISCLOSURE PROVISIONS

SEC. 501. INTERNET ACCESS TO RECORDS.

Section 304(a)(11)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(B)) is amended to read as follows:

"(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (or not later than 24 hours in the case of a

designation, statement, report, or notification filed electronically) after receipt by the Commission."

SEC. 502. MAINTENANCE OF WEBSITE OF ELECTION REPORTS.

(a) IN GENERAL. — The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all publicly available election-related reports and information.

(b) ELECTION-RELATED REPORT. — In this section, the term "election-related report" means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) COORDINATION WITH OTHER AGENCIES. — Any Federal executive agency receiving election-related information which that agency is required by law to publicly disclose shall cooperate and coordinate with the Federal Election Commission to make such report available through, or for posting on, the site of the Federal Election Commission in a timely manner.

SEC. 503. ADDITIONAL DISCLOSURE REPORTS.

(a) PRINCIPAL CAMPAIGN COMMITTEES. — Section 304(a)(2)(B) of the Federal Election Campaign Act of 1971 is amended by striking "the following reports" and all that follows through the period and inserting "the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year."

(b) NATIONAL COMMITTEE OF A POLITICAL PARTY. — Section 304(a)(4) of such Act (2 U.S.C. 434(a)(4)) is amended by adding at the end the following flush sentence: "Notwithstanding the preceding sentence, a national committee

of a political party shall file the reports required under subparagraph (B)."

SEC. 504. PUBLIC ACCESS TO BROADCASTING RECORDS.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following:

"(e) POLITICAL RECORD. —

"(1) IN GENERAL. — A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that —

"(A) is made by or on behalf of a legally qualified candidate for public office; or

"(B) communicates a message relating to any political matter of national importance, including —

"(i) a legally qualified candidate;

"(ii) any election to Federal office; or

"(iii) a national legislative issue of public importance.

"(2) CONTENTS OF RECORD. — A record maintained under paragraph (1) shall contain information regarding —

"(A) whether the request to purchase broadcast time is accepted or rejected by the licensee;

"(B) the rate charged for the broadcast time;

"(C) the date and time on which the communication is aired;

"(D) the class of time that is purchased;

"(E) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

"(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

"(G) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

"(3) TIME TO MAINTAIN FILE. — The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years."

APPENDIX G

NOTICE OF APPEAL
(Denial of Motion to Alter or Amend Judgment)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL *et al.*, Plaintiffs,	)	[filed May 28, 2003]
v.	)	Case No. 02-0582 (CKK, KLH, RJL)
FEDERAL ELECTION COMMISSION *et al.*, Defendants.	)	

Madison Center Plaintiffs' Notice of Appeal
(Denial of Motion to Alter or Amend)

Madison Center Plaintiffs U.S. Representative Mike Pence, Alabama Attorney General Bill Pryor, Libertarian National Committee, Inc., Club for Growth, Inc., Indiana Family Institute, Inc., National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, National Right to Life Political Action Committee, Barret Austin O'Brock, and Trevor M. Southerland hereby give notice that they appeal to the United States Supreme Court from the Order of this Court of May 1, 2003, denying as moot *Madison Center Plaintiffs' Motion to Alter or Amend the Judgment*.

Respectfully submitted,

/s/ James Bopp, Jr.
James Bopp, Jr.
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APPENDIX H

OPINION
(Denial of Motion to Alter or Amend Judgment)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed May 19, 2003]

SENATOR MITCH McCONNELL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-582 (CKK, KLH, RJL)

NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-581 (CKK, KLH, RJL)

EMILY ECHOLS, a minor child, by and through her next friends, TIM AND WINDY ECHOLS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-633 (CKK, KLH, RJL)
CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-751 (CKK, KLH, RJL)
NATIONAL ASSOCIATION OF BROADCASTERS, Plaintiff, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-753 (CKK, KLH, RJL)

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-754 (CKK, KLH, RJL)
CONGRESSMAN RON PAUL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-781 (CKK, KLH, RJL)
REPUBLICAN NATIONAL COMMITTEE, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.* Defendants.	Civ. No. 02-874 (CKK, KLH, RJL)
CALIFORNIA DEMOCRATIC PARTY, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-875 (CKK, KLH, RJL)

VICTORIA JACKSON GRAY ADAMS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-877 (CKK, KLH, RJL)

REPRESENTATIVE BENNIE G. THOMPSON, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-881 (CKK, KLH, RJL)

MEMORANDUM OPINION
(May 19, 2003)

Presently before the Court are a number of motions to stay all or part of this Court's May 1, 2003, Final Judgment. On May 7, 2003, the NRA Plaintiffs moved, pursuant to Federal Rule of Civil Procedure 62(c), to stay this Court's decision with respect to Title II pending review by the Supreme Court. NRA Mem. at 1. On May 8, 2003, this Court issued an Order requiring that any other motions requesting to stay all or part of this Court's May 1, 2003, Final Judgment Order be filed by noon on Friday, May 9, 2003. *McConnell v. FEC*, No. 02cv582 (D.D.C. May 8, 2003) (briefing order). The Court also required that any and all oppositions to the motions for stay be filed by noon on Monday, May 12, 2003, and that any and all replies to

the motions for stay be filed by noon on Wednesday, May 14, 2003. *Id.*

In accordance with that schedule, on May 9, 2003, Plaintiff ACLU filed a stay motion joining Plaintiff NRA's request to stay this Court's decision with respect to Title II. ACLU Mot. at 3. The NRA and ACLU stay motions have been opposed by the Madison Center Plaintiffs,[1] who along with the AFL-CIO Plaintiffs have each moved for injunctive relief requesting that the Court not restore any definition of "electioneering communication." Madison Center Mem. at 1; AFL-CIO Mem at 2. The Madison Center Plaintiffs and the AFL-CIO Plaintiffs' motions have been opposed by the Government Defendants[2] and Intervenor Defendants.[3]

The Government Defendants and Intervenor-Defendants also move pursuant to Rule 62(c) to stay the Court's entire Final Judgment pending disposition of the parties' appeals to the Supreme Court of the United States. Gov't Mem. at 4; Intervenor Defs.' Mem. at 1. These motions are

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[1]Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, National Right to Life PAC, Libertarian National Committee, Inc., Club for Growth, Inc., Indiana Family Institute, Inc., U.S. Representative Mike Pence, Alabama Attorney General William H. Pryor, Barret Austin O'Brock, and Trevor M. Southerland.

[2]The Government Defendants include the Federal Election Commission, the United States of America, the United States Department of Justice, John Ashcroft, Attorney General of the United States, and the Federal Communications Commission.

[3]The Intervenor Defendants include Senator John McCain, Senator Russell Feingold, Representative Christopher Shays, Representative Martin Meehan, Senator Olympia Snowe, and Senator James Jeffords.

opposed by certain of the McConnell Plaintiffs,[4] who argue that the Court's Final Judgment with respect to Sections 201(5), 213, 318, and 504 of the Bipartisan Campaign Reform Act ("BCRA"), the positions unanimously struck down by the three judge court, should not be stayed. McConnell Opp'n at 3. These McConnell Plaintiffs also contend that the Court's ruling with regard to Title I should not be stayed. *Id.* at 3-4. These McConnell Plaintiffs join the NRA and ACLU in requesting, however, that the Court's Title II ruling be stayed. *Id.* at 4-6. Defendants' motions are also opposed by Plaintiff National Association of Broadcasters which requests that the Court not stay its ruling with regard to Section 504 of BCRA. NAB Mem. at 5. Plaintiff National Association of Broadcasters takes no position with respect to any of the other stay requests. *Id.* at 1. Similarly, Plaintiffs in Civil Action Number 02-633, the Echols Plaintiffs, oppose Defendants' motions, particularly with respect to staying the Court's ruling on Section 318 of BCRA. Echols' Opp'n at 2. Additional oppositions to the Government Defendants and Intervenor Defendants' motions have been filed by Republican National Committee Plaintiffs[5] and Plaintiffs California Democratic Party and California Republi-

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[4]These McConnell Plaintiffs include Senator Mitch McConnell, Southeastern Legal Foundation, Inc., Representative Bob Barr, Center for Individual Freedom, National Right to Work Committee, 60 Plus Association, Inc., U.S. d/b/a Pro English, and Thomas McInerney.

[5]The Republican National Committee Plaintiffs include the Republican National Committee, the Republican Parties of Colorado, New Mexico, and Ohio, Dallas County (Iowa) Republican County Central Committee, and Michael Duncan.

can Party,[6] opposing the stay motions only with respect to staying this Court's ruling on Title I of BCRA. CDP/CRP Opp'n at 2; RNC Opp'n at 1. The Madison Center Plaintiffs and the AFL-CIO also each oppose these motions and argue, as discussed *supra*, that the Court should not reinstate either definition of electioneering communication.

Two motions for "administrative" stays filed by the NRA Plaintiffs and the Government Defendants (joined by the Intervenor Defendants) are also pending before this Court. These requests are to stay all (Defendants' position) or part (NRA's position) of the Court's ruling until the Court can make a ruling on the present Rule 62(c) motions. Given that the Court is ruling on the Rule 62(c) motions in the attached order, the administrative stay requests are denied as moot.

After due consideration of the motions, the oppositions, and replies, the relevant case law, and the pertinent Federal Rules of Civil Procedure, the Court is satisfied that a stay should be granted pending final disposition of these eleven actions in the Supreme Court of the United States. This Court's desire to prevent the litigants from facing potentially three different regulatory regimes in a very short time span, and the Court's recognition of the divisions among the panel about the constitutionality of the challenged provisions of BCRA, counsel in favor of granting a stay of this case. Pursuant to Federal Rule of Civil Procedure 52(a) ("Findings of fact and conclusions of law are unnecessary on decisions of

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[6]Joining the CDP and CRP in opposing these motions are Yolo County Democratic Central Committee, Art Torres, Santa Cruz Republican Central Committee, Shawn Steel, Timothy Morgan, Barbara Alby, and Douglas R. Boyd, Sr.

motions under Rule 12 or 56 or any other motion. . . ."), the Court deems no further discussion necessary to resolve these motions.

/s/
KAREN LECRAFT HENDERSON
United States Circuit Judge

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge

RICHARD J. LEON, *District Judge*, dissenting in part and concurring in part: Because the moving parties have failed to demonstrate irreparable injury and because granting a stay to this Court's judgment in its entirety will violate the First Amendment rights of various political parties, donors, broadcasters, interest groups, and minors, I respectfully dissent in part from, and concur in part in, my colleagues' decision.

After months of painstaking analysis, this Court found unconstitutional, in whole or in part, nine of the twenty provisions of BCRA challenged by the plaintiffs. Four of those provisions were struck down unanimously (i.e., 201(5), 213, 318, and 504), and four were struck down in their entirety (i.e., 213, 318, 504, and new FECA Section 323(d)). While our reasoning may have differed in some instances, at least two members of this Court *in each instance* found that the unconstitutional section of the statute (or its subpart) unjustifiably infringed upon the constitutional rights of one or more of the various parties' impacted by the BCRA campaign finance regime. Indeed, because "the loss of First Amendment freedom for even minimal periods of time unquestionably constitutes irreparable injury," *Elrod v. Burns*, 427 U.S. 347, 374 (1976), the moving parties' arguments must be scrutinized by this Court with extreme care to ensure that they meet the high standards for this "extraordinary remedy." Cuomo v. U.S. Nuclear Reg. Comm'n, 772 F.2d 972, 978 (D.C. Cir. 1985).[7] In my judgment, their arguments, for the

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[7]The Court will only grant a stay pending appeal if the moving parties can "show (1) that [they] have a substantial likelihood of success on the merits; (2) that [they] will suffer irreparable injury if the stay is denied; (3) that issuance of the stay will not cause substantial harm to other parties; and (4) that the public interest will be served by issuance of the stay." *United States v. Philip*

most part, cannot withstand such scrutiny.

With regard to Title I, two members of this Court found that the defendants could not justify Congress's sweeping soft money restrictions in new FECA Sections 323(a) and 323(b) that require political parties to fund nonfederal and mixed-purposed activities with only federal money. Such restrictions, in our judgment, placed an impermissible burden on the associational rights of parties and their donors. Thus, every day these BCRA provisions remain in effect donors are restricted from using donations to amplify their voices through their political parties, thereby suffering irreparable injury. It is difficult to fathom how granting a stay on these Title I provisions could possibly be in the public interest, or be justified by the relatively minor inconvenience to the FEC of having to reinstate, for the most part, its all-too-familiar pre-BCRA rules. Moreover, the defendants' argument that this Court's judgment is "likely to create the appearance or fact of corruption" by allowing political parties and others to raise and use nonfederal funds (i.e., soft money) is similarly unavailing. Gov't Mot. for Stay at 9, 13-14. As long as soft money cannot be used for federal purposes, which is after all the majority holding of this Court, the risk of actual or apparent corruption is nonexistent. Simply stated, the public interest is much better served by protecting the public's First Amendment freedoms and by ensuring that the political parties and

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Morris, Inc., 314 F.3d 612, 617 (D.C. Cir. 2003)(citing *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977)). These factors must be weighed against one another, and the mere presence of one factor does not dictate an outcome for or against the stay. *See Serono Labs., Inc. v. Shalala*, 158 F.3d 1313, 1318 (D.C. Cir. 1998); *CityFed Fin. Corp. v. Office of Thrift Supervision*, 58 F.3d 738, 747 (D.C. Cir. 1995).

other participants in the public arena are free to play their traditional roles in the electoral process unimpeded by unconstitutional restraints.

With regard to Title II, I similarly do not believe the moving parties have demonstrated sufficient irreparable harm, alone, to warrant a stay—particularly as to Sections 201(5) and 213 which were unanimously struck down by this Court. However, I do believe that the FEC's unfortunate failure to promulgate regulations for the backup definition, as it did for the primary definition,[8] has sufficiently deprived the parties of guidance regarding the contours of the backup definition to warrant a stay of the primary definition portion of our judgment on Section 201. Doing so, at this time, is palatable since the primary definition does not take effect as a practical matter until thirty days before the first primary election and will therefore not immediately injure the plaintiffs. Unlike my colleagues, however, I would limit that stay to the period of time necessary for the FEC to issue regulatory guidance on the backup definition, and thereby minimize the negative consequences of reinstating the primary definition.

Finally, with respect to Sections 318 and 504, which

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[8]Some commenters on the proposed FEC regulations argued that "the period between a final decision in [this] litigation and the 2004 elections is likely to be too short to permit the commission to complete a rulemaking [on the backup definition] in time to provide guidance, if the operative definition is invalidated. They further argued that the [backup] definition's application to the entire election cycle, and not just the 30- or 60-day periods to which the current definition is limited, exacerbates the timing issue." Electioneering Communications, 67 Fed. Reg. 65190, 65191 (Oct. 23, 2002). Without regard to these concerns, the FEC decided that promulgating regulations for the backup definition was "premature." Id.

are conceptually distinct from 4 Titles I and II and were also struck down unanimously by this Court, the moving parties have not even attempted to demonstrate that irreparable harm will occur if the judgments as to these sections are not stayed; nor could they have done so, credibly. To me, including these flawed sections in a statute-wide stay would be like a fisherman retaining whatever the ocean yields to a net with undersized mesh. It increases his "catch," but the public interest dictates against it. Suffice it to say, continuing such unconstitutional restrictions on minors and demanding such unconstitutional record production from broadcasters is, in my judgment, inconsistent with both the public interest and the spirit of the First Amendment.

/s/
RICHARD J. LEON
United States District Judge

APPENDIX I

ORDER
(Denial of Motion to Alter or Amend Judgment)

[Filed May 19, 2003]

SENATOR MITCH McCONNELL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-582 (CKK, KLH, RJL)
NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-581 (CKK, KLH, RJL)
EMILY ECHOLS, a minor child, by and through her next friends, TIM AND WINDY ECHOLS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-633 (CKK, KLH, RJL)

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-751 (CKK, KLH, RJL)
NATIONAL ASSOCIATION OF BROADCASTERS, Plaintiff, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-753 (CKK, KLH, RJL)
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-754 (CKK, KLH, RJL)
CONGRESSMAN RON PAUL, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-781 (CKK, KLH, RJL)

REPUBLICAN NATIONAL COMMITTEE, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.* Defendants.	Civ. No. 02-874 (CKK, KLH, RJL)
CALIFORNIA DEMOCRATIC PARTY, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-875 (CKK, KLH, RJL)
VICTORIA JACKSON GRAY ADAMS, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-877 (CKK, KLH, RJL)
REPRESENTATIVE BENNIE G. THOMPSON, *et al.*, Plaintiffs, v. FEDERAL ELECTION COMMISSION, *et al.*, Defendants.	Civ. No. 02-881 (CKK, KLH, RJL)

ORDER
(May 19, 2003)

For the reasons set forth in the Memorandum Opinion of Circuit Judge Henderson and District Judge Kollar-Kotelly, from which District Judge Leon concurs in part and dissents in part, it is this 19th day of May, 2003, hereby

ORDERED that the Government Defendants' Motion for Stay of Final Judgment Pending Appeal to the Supreme Court of the United States [#327] is GRANTED; it is further

ORDERED that the Intervening Defendants' Motion to Stay Injunction Pending Appeal [#322] is GRANTED; it is further

ORDERED that the NRA Plaintiffs' Motion to Stay Pursuant to Rule 62(c) [#317] is DENIED AS MOOT; it is further

ORDERED that Plaintiff ACLU's Motion for Stay Pursuant to Rule 62(c) [#325] is DENIED AS MOOT; and it is further

ORDERED that this Court's May 1, 2003, Final Judgment is STAYED pending final disposition of these actions in the Supreme Court of the United States.

All three judges concur that it is hereby

ORDERED that Certain of the Madison Center Plaintiffs'[1] Motion for Injunction Pending Appeal [#321] is

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[1]For purposes of this motion, the Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, Club for Growth, Inc., and Indiana

DENIED; it is further

ORDERED that Plaintiff AFL-CIO's Motion for an Injunction Pending Appeal [#319] is DENIED; it is further

ORDERED that the NRA Plaintiffs' Motion for an Administrative Stay, Pending Adjudication of Their Motion to Stay Pursuant to Rule 62(c) [#318] is DENIED AS MOOT; it is further

ORDERED that the Government Defendants' Emergency Motion for Temporary Stay of Final Judgment Pending Consideration of Motion for Stay of Final Judgment Pending Appeal to the Supreme Court of the United States [#326] is DENIED AS MOOT; it is further

ORDERED that Certain of the Madison Center Plaintiffs'[2] Motion to Convene an Open Hearing on their Motion for an Injunction Pending Appeal [#328] is DENIED[3]; and it is further

ORDERED that the Madison Center Plaintiffs' Motion to Alter or Amend the Judgment [#316] is DENIED AS MOOT.

SO ORDERED.

Family Institute, Inc.

[2]For purposes of this motion, the Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, Club for Growth, Inc., and Indiana Family Institute, Inc.

[3]As all three judges have signed this Order, the Court has complied with Federal Rule of Civil Procedure 62(c) and does not need to issue this order by sitting in open court. Fed. R. Civ. P. 62(c).

/s/
KAREN LECRAFT HENDERSON
United States Circuit Judge

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge

/s/
RICHARD J. LEON
United States District Judge

No. 02-A_____

In the Supreme Court of the United States

NATIONAL RIGHT TO LIFE COMMITTEE, INC., et al., *Appellants*

v.

FEDERAL ELECTION COMMISSION, et al., *Appellees*,

Appeal from No. 02-581(and consolidated cases) in the
United States District Court for the District of Columbia

Certificate of Service

I, James Bopp, Jr., a member of the bar of this court, certify that on May 28, 2003, I served a copy of the *Jurisdictional Statement* by email, facsimile and first-class mail upon the following persons, per arrangements in an agreed order in the district court, and that all person required to be served have been served:

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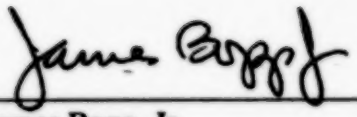
May 28, 2003



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Supreme Court, U.S.
FILED
MAY 30 2003
OFFICE OF THE CLERK

No. 02-1733

In the Supreme Court of the United States

NATIONAL RIGHT TO LIFE COMMITTEE, INC., ET AL.,
APPELLANTS

v.

FEDERAL ELECTION COMMISSION, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RESPONSE OF APPELLEES FEDERAL ELECTION COMMISSION, ET AL.

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QUESTIONS PRESENTED

In 2002, the President signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. BCRA is designed to address various abuses associated with the financing of federal election campaigns and thereby protect the integrity of the federal electoral process. The questions presented by this appeal are as follows:

1. Whether the limitations on political parties and on federal and state officeholders and candidates imposed by Section 101 of BCRA are constitutional.

2. Whether BCRA's funding limitations and disclosure requirements pertaining to "electioneering communications" are constitutional.

3. Whether appellants' challenge to Section 212 of BCRA, which requires disclosure of certain independent campaign expenditures, is justiciable.

4. Whether Section 212 of BCRA is constitutional.

5. Whether the injunction entered by the district court should have been expressly extended to cover activities occurring outside the District of Columbia.

6. Whether the intervention in this litigation of Members of Congress seeking to defend the constitutionality of BCRA, pursuant to Section 403(b) of the statute, was consistent with Article III of the Constitution.

In the Supreme Court of the United States

No. 02-1733

NATIONAL RIGHT TO LIFE COMMITTEE, INC., ET AL., APPELLANTS

v.

FEDERAL ELECTION COMMISSION, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RESPONSE OF APPELLEES FEDERAL ELECTION COMMISSION, ET AL.[1]

OPINIONS BELOW

The opinions of the district court are not yet reported.

JURISDICTION

The judgment of the district court was entered on May 2, 2003. Appellants' notices of appeal (J.S. App. 1a-2a, 69a-70a) were filed on May 7, 2003, and May 28, 2003. Appellants' jurisdictional statement was filed on

[1] This response is filed on behalf of the Federal Election Commission (FEC) and David M. Mason, Ellen L. Weintraub, Danny L. McDonald, Bradley A. Smith, Scott E. Thomas, and Michael E. Toner, in their capacities as Commissioners of the FEC; John Ashcroft, in his capacity as Attorney General of the United States; the United States Department of Justice; the Federal Communications Commission; and the United States of America. Those parties are appellants in *Federal Election Commission* v. *Mitch McConnell, United States Senator*, No. 02-1676.

May 28, 2003. The jurisdiction of this Court is invoked under the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, § 403(a)(3), 116 Stat. 114.

STATEMENT

This case presents a facial challenge to the constitutionality of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. A three-judge panel of the District Court for the District of Columbia held that several provisions of BCRA violate the First Amendment to the Constitution, while sustaining other BCRA provisions against various constitutional challenges. The district court also held that the plaintiffs' challenges to certain BCRA provisions are not justiciable in this suit. Congress has vested this Court with direct appellate jurisdiction over the district court's decision. See BCRA § 403(a)(3), 116 Stat. 114.

Appellants challenge various rulings of the district court that (a) rejected some of appellants' constitutional challenges on the merits, or (b) held another of their claims to be non-justiciable. Appellants also challenge (c) the district court's denial of appellants' post-judgment motion to make the court's injunction expressly applicable to activities occurring outside the District of Columbia, and (d) the intervention in this litigation, pursuant to Section 403(b) of BCRA (116 Stat. 114), of six Members of Congress seeking to defend the constitutionality of the statute. As of this date, seven other jurisdictional statements arising out of the same district court judgment are pending before this Court. See *Mitch McConnell, United States Senator* v. *Federal Election Commission*, No. 02-1674; *National Rifle Association* v. *Federal Election Commission*, No. 02-1675; *Federal Election Commission* v. *Mitch*

McConnell, United States Senator, No. 02-1676 (see note 1, *supra*); *John McCain, United States Senator* v. *Mitch McConnell, United States Senator*, No. 02-1702; *Republican National Committee* v. *Federal Election Commission*, No. 02-1727; *American Civil Liberties Union* v. *Federal Election Commission*, No. 02-1734; *Victoria Jackson Gray Adams* v. *Federal Election Commission*, No. 02-1740.

DISCUSSION

Under Section 403(a)(3) of BCRA, the final decision of the district court in this case is "reviewable only by appeal directly to the Supreme Court of the United States." 116 Stat. 114. Pursuant to Section 403(a)(4) of BCRA, this Court is directed "to advance on the docket and to expedite to the greatest possible extent the disposition of the * * * appeal." 116 Stat. 114. In addition to filing our own jurisdictional statement (see note 1, *supra*) to appeal the district court's rulings declaring certain provisions of BCRA to be invalid, appellees will defend on appeal those provisions of the statute that were sustained against appellants' constitutional challenges. Appellees agree, however, that appellants' jurisdictional statement identifies substantial questions of federal law and that this Court should note probable jurisdiction over the appeal.[2]

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[2] On May 23, 2003, appellees filed a motion for expedited briefing schedule applicable to all then-pending appeals (see pp. 2-3, *supra*) from the district court's judgment in this case. That briefing schedule should also be made applicable to the instant appeal.

CONCLUSION

The Court should note probable jurisdiction.

Respectfully submitted.

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Nos. 02-1727 and 02-1733

IN THE

Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE, *et al.*,
Appellants,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Appellees.

NATIONAL RIGHT TO LIFE COMMITTEE, INC., *et al.*,
Appellants,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Appellees.

On Appeals from the
United States District Court
for the District of Columbia

INTERVENOR-APPELLEES' RESPONSE TO JURISDICTIONAL STATEMENTS

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QUESTIONS PRESENTED

1. Whether the Court should summarily dispose of appellants' constitutional challenges to Sections 212, 214(b), 214(c), 304, 319, and 403(b) of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81, because those challenges are plainly nonjusticiable or insubstantial under settled law.

2. Whether, in other respects, the Court should note probable jurisdiction over appellants' constitutional challenges to BCRA, and set the appeals on those issues for briefing and oral argument.

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IN THE

Supreme Court of the United States

NO. 02-1727

REPUBLICAN NATIONAL COMMITTEE, *et al.*,
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Appellees.

NO. 02-1733

NATIONAL RIGHT TO LIFE COMMITTEE, INC., *et al.*,
Appellants,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Appellees.

INTERVENOR-APPELLEES' RESPONSE TO JURISDICTIONAL STATEMENTS

INTRODUCTION

Although intervenor-appellees take issue with the positions taken on the merits by the Republican National Committee (RNC), *et al.*, and the National Right to Life Committee (NRLC), *et al.*, in their jurisdictional statements, we agree that many of the questions presented in their jurisdictional statements warrant plenary consideration by this Court.[1] In light of Sections 403(a)(3) and (a)(4) of the Bipar-

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[1] Intervenor-appellees are Senator John McCain, Senator Russell Feingold, Representative Christopher Shays, Representative Martin

tisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81, which provide for direct and expedited review in this Court of any final decision of a three-judge district court hearing a challenge to the constitutionality of BCRA, and in light of the importance of the issues to the nation, intervenor-appellees submit that the Court should note probable jurisdiction over these appeals and set the cases for briefing and oral argument.

Some of the questions presented in the RNC and NRLC jurisdictional statements, however, do not warrant plenary consideration by this Court. Those questions raise challenges to BCRA that are either clearly nonjusticiable under well-settled principles of constitutional and administrative law, or otherwise so insubstantial as not to justify further briefing and argument. It is entirely appropriate for the Court to summarily dispose of appeals by dismissal or affirmance, insofar as they seek to raise issues that are nonjusticiable or insubstantial.[2] Summary disposition of such issues is especially appropriate in complex cases such as these, which present challenges by 77 separate parties to nearly two dozen separate provisions. *See* Supplemental Appendix to Jurisdictional Statement (JSSA) 10-15sa ("Chart of the Court's Rulings"), 76-77sa n.55 (per curiam). Through summary disposition, the Court can focus briefing and argument on those issues that warrant plenary review. Such summary disposition would promote the orderly and expedited resolution of the various pending challenges to BCRA.

Meehan, Senator Olympia Snowe, and Senator James Jeffords. The intervenors are also appellants in No. 02-1702, *McCain* v. *McConnell*.

[2] *See* S. Ct. R. 18.6 and 18.12; *see also Don't Bankrupt Wash. Comm.* v. *Continental Ill. National Bank & Trust Co.*, 460 U.S. 1077 (1983) (summary dismissal for want of jurisdiction, "it appearing appellant lacks standing to bring this appeal"); *Republican National Comm.* v. *FEC*, 445 U.S. 955 (1980) (summary affirmance of lower court decisions rejecting various constitutional challenges to campaign finance laws on the merits); *Clark* v. *Kimmitt*, 431 U.S. 950 (1977) (summary affirmance of D.C. Circuit's dismissal of various challenges to campaign finance laws as nonjusticiable).

ARGUMENT

I. THE RNC APPELLANTS FAIL TO RAISE ANY JUSTICIABLE QUESTION WITH RESPECT TO THE COORDINATION RULEMAKING PROVISIONS OF BCRA SECTION 214(b)-(c)

Like the McConnell appellants, the RNC appellants challenge the coordination rulemaking provisions of BCRA Section 214(b)-(c). *See* RNC J.S. Question Presented 2 and pp. 15-16. The RNC appellants contend that Section 214 directed the Federal Election Commission (FEC) to promulgate coordination rules that will *necessarily* encompass conduct that is truly independent of a candidate, and will make political parties responsible for independent expenditures by persons or entities with whom the parties have little if any relationship. *See* RNC J.S. 4, 6, 15-16.

For the reasons set forth at pages 7-12 of our response to the McConnell and NRA jurisdictional statements (Nos. 02-1674 and 02-1675, respectively), these challenges to Section 214 fail under well-established principles of justiciability and subject-matter jurisdiction. Appellants have no basis for a facial challenge to Section 214, for there is nothing in that provision that requires the FEC to issue regulations that would conflict with any constitutional principle that this Court has articulated with respect to independent expenditures. To the extent the RNC appellants are dissatisfied with the outcome of the FEC's rulemaking, they may challenge the Commission's coordination rules in an action for judicial review under the Administrative Procedure Act, in which they may raise both constitutional and statutory challenges to those rules. The district court was therefore clearly correct in holding these claims to be nonjusticiable and beyond the subject-matter jurisdiction of the special three-judge district court conferred by BCRA Section 403(a). *See* JSSA 134-56sa (per curiam).

II. THE RNC APPELLANTS LACK STANDING TO CHALLENGE THE "MILLIONAIRES PROVISIONS" OF BCRA SECTIONS 304 AND 319

The third question presented in the RNC's jurisdictional statement is whether BCRA's so-called "Millionaires Provisions" violate constitutional equal protection principles. The challenged provisions in BCRA Sections 304 and 319 allow a Senate or House candidate, respectively, to raise hard money in increased amounts if his or her opponent spends large sums of personal money on the campaign. The contribution limits increase depending on the amount of personal funds expended by the self-financed opponent. The statutory formula takes into account funds amassed by candidates (not including contributions from personal funds), so that an incumbent candidate with a sizable war chest will not benefit unless his or her self-financed opponent devotes a much larger amount of personal funds to the campaign. *See* BCRA § 316. A candidate whose opponent spends a "personal funds amount" more than a certain sum may also accept increased coordinated expenditures from his or her state or national party. *See* BCRA § 304(a) (Senate), § 319(a) (House). A candidate's ability to accept contributions and party coordinated expenditures under these increased limits is subject to an overall cap tied to the amount spent by the self-financed opponent. *Id.*

The RNC appellants contend that these provisions "effectively punish any Senate or House candidate who uses more than specified amounts of personal assets to fund his or her campaign," thereby violating such candidates' "First Amendment-protected rights to spend their own resources." RNC J.S. 4, 6. The district court unanimously and correctly held, however, that none of the RNC appellants has standing to challenge those provisions in this litigation. *See* JSSA 8sa (per curiam), 475-77sa (Henderson). As Judge Henderson explained, none of the RNC appellants claims to be a candidate or even a potential candidate for the House or Senate who might spend more than the specified amounts of personal funds on a campaign. *See* JSSA 477sa. Accordingly, a

claim that any of the RNC appellants would suffer disadvantage because of the challenged provisions is entirely theoretical at this point.

The RNC appellants also argue that political parties have standing to challenge Sections 304 and 319 on equal protection grounds because those provisions supposedly require parties to treat their own similarly situated candidates differently, with respect to making coordinated expenditures. *See* RNC J.S. Question Presented 3 and pp. 16-17. As Judge Henderson explained, that reading of BCRA is plainly wrong: "even in circumstances where the provisions *permit* a party committee to engage in unlimited coordinated spending [subject to the overall cap], they do not *require* a committee to do so." JSSA 477sa.

Moreover, whether the party coordinated-expenditure limits are altered in any given instance will depend on a large number of highly conjectural variables: the party's candidate must face a wealthy opponent; the opponent must decide to spend a "personal funds amount" over a certain sum; the relative campaign funds available to the respective candidates must exceed a certain ratio; and a candidate who otherwise qualifies to benefit from increased party coordinated expenditures must request them. This string of variables confirms that the RNC appellants fail to meet the Article III requirement of injury that is "actual or imminent, not conjectural or hypothetical." *Whitmore* v. *Arkansas*, 495 U.S. 149, 155 (1990) (internal quotation marks and citation omitted); *see also Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 601 (1992).

III. The NRLC Appellants Fail To Raise Any Justiciable Or Substantial Question With Respect To BCRA Section 212

Like the McConnell appellants, the NRLC appellants seek to challenge what they maintain is a requirement in BCRA Section 212 that "advance notice" be given of independent expenditures. *See* NRLC J.S. Question Presented 5 and p. 22. As we have explained in our response to the McConnell and NRA jurisdictional statements, at pp. 3-5,

the FEC has unambiguously construed Section 212 *not* to require any such advance notice. Accordingly, as the district court concluded (*see* JSSA 130-34sa (per curiam)), there is no credible threat that Section 212 will be enforced against anyone in the manner that the NRLC appellants fear, and so any challenge to Section 212 on the ground that it unconstitutionally requires "advance notice" is clearly nonjusticiable and without merit.

IV. THE NRLC APPELLANTS FAIL TO RAISE ANY SUBSTANTIAL QUESTION WITH RESPECT TO THE GEOGRAPHIC SCOPE OF THE DISTRICT COURT'S INJUNCTIVE RELIEF

The NRLC appellants ask this Court to decide "[w]hether [the] District Court injunction should extend to activities outside the District of Columbia." NRLC J.S. Question Presented 6; *see also id.* at 22-24. That question presents no issue appropriate for this Court's consideration. The district court stayed its injunction on May 19, pending this Court's final disposition of the appeals from the district court's final judgment. On May 23, the Chief Justice denied the NRLC appellants' application to vacate the district court's stay. Thus, there is *no* injunction presently in effect, let alone one that is only being honored within the District of Columbia. This Court's final disposition of the appeals, of course, will have nationwide force. The question presented is thus plainly insubstantial.

V. THE NRLC APPELLANTS FAIL TO RAISE ANY SUBSTANTIAL QUESTION WITH RESPECT TO THE CONGRESSIONAL INTERVENORS' STANDING UNDER BCRA SECTION 403(b)

Finally, the NRLC appellants ask this Court to decide whether BCRA Section 403(b), which permits Members of Congress to intervene in any action brought to challenge the constitutionality of BCRA, violates Article III standing principles. *See* NLRC J.S. Question Presented 7 and pp. 24-

27.[3] The NRLC argues that a party who seeks to intervene as a defendant must establish Article III standing, and contends that the courts of appeals have reached conflicting conclusions on that point. That question, however, is not presented by this case, because the district court assumed that a party seeking to intervene as a defendant must establish Article III standing, and then unanimously concluded that the intervenors in this case had done so. *See* App., *infra*, 4a-6a.

In challenging the intervenors' standing, the NRLC errs in analogizing this case to *Raines* v. *Byrd*, 521 U.S. 811, 829 (1997), and similar cases involving the standing of legislators who sought to vindicate various institutional interests. *See* NRLC J.S. 26. As the district court correctly explained, the intervenors in this case "do not seek to vindicate a 'sponsorship' interest in the Act." App., *infra*, 7a. Rather, the intervenors have Article III standing as direct *individual* participants in the electoral process, with respect to the laws governing the processes by which they seek and retain their offices. Thus, "as opposed to members of the general public, [intervenors] have a concrete, direct, and personal stake—as candidates and potential candidates—in the outcome of a constitutional challenge to a law regulating the processes by which they may attain office." *Id.* at 6a.[4]

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[3] The NRLC appellants acknowledge that Section 403(b), by providing for intervention of right by Members of Congress, removes any prudential standing concerns that might otherwise exist. *See* NRLC J.S. 25; *see also Raines* v. *Byrd*, 521 U.S. 811, 820 n.3 (1997).

[4] *See also Buckley* v. *Valeo*, 424 U.S. 1, 7-8, 12 n.11 (1976) (per curiam); *Nixon* v. *Shrink Missouri Gov't PAC*, 528 U.S. 377, 383 (2000); *Vote Choice, Inc.* v. *DiStefano*, 4 F.3d 26, 37 (1st Cir. 1993) ("[A]n impact on the strategy and conduct of an office-seeker's political campaign constitutes an injury of a kind sufficient to confer standing."); *Meek* v. *Metropolitan Dade County*, 985 F.2d 1471 (11th Cir. 1993) (standing to intervene in defense of election law); *Marshall* v. *Meadows*, 921 F. Supp. 1490, 1492 (E.D. Va. 1996) (candidate standing to defend election law); *cf. Cook* v. *Gralike*, 531 U.S. 510, 531 (2001) (Rehnquist, C.J., concurring in the judgment) ("no one questions the standing" of candidates with respect to ballot-access provisions).

Moreover, it is far from clear how the NRLC appellants could benefit from their challenge to the intervenors' standing in this Court. Even if the NRLC appellants persuaded this Court that the intervenors lacked standing, that would not provide a basis for reversal or vacatur of any aspect of the district court's decision that was adverse to them, for they would still have to prevail on the merits against the Executive Branch defendants. The situation in this case is therefore closely analogous to that in *Buckley* v. *Valeo*, 424 U.S. 1, 12 (1976) (per curiam), in which this Court decided not to linger over questions of individual party standing given that "at least some" parties had standing with respect to each challenged statutory provision.

CONCLUSION

The Court should summarily dispose of the RNC and NRLC appellants' challenges to Sections 212, 214(b), 214(c), 304, 319, and 403(b). In all other respects, the Court should note probable jurisdiction of the appeals in these cases and set the cases for plenary review.

It is, moreover, highly ironic that the NRLC appellants would challenge the standing of the intervenor-appellees, given that two of the objecting appellants, Representative Mike Pence and Alabama Attorney General Bill Pryor, base their own standing on precisely the same kinds of interests in the electoral process. *See* McConnell, *et al.*, Second Amended Complaint ¶¶ 17, 18.

Respectfully submitted,

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JUNE 2003

APPENDIX

APPENDIX

APPENDIX

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, *et al.*,

Plaintiffs,

v.

Civ. No. 02-582
(CKK, KLH, RJL)

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

NRA, *et al.*,

Plaintiffs,

v.

Civ. No. 02-581
(CKK, KLH, RJL)

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

ECHOLS, *et al.*,

Plaintiffs,

v.

Civ. No. 02-633
(CKK, KLH, RJL)

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*,

Plaintiffs,

v.

Civ. No. 02-751 (CKK, KLH, RJL)

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

NATIONAL ASSOCIATION OF BROADCASTERS,

Plaintiffs,

v.

Civ. No. 02-753 (CKK, KLH, RJL)

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

AFL-CIO, *et al.*,

Plaintiffs,

v.

Civ. No. 02-754 (CKK, KLH, RJL)

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

CONGRESSMAN RON PAUL, *et al.*,

Plaintiffs,

v.

Civ. No. 02-781
(CKK, KLH, RJL)

FEDERAL ELECTION COMMISSION, *et al.*,

Defendants.

ORDER GRANTING MOTION TO INTERVENE
(May 3, 2002)

Pursuant to Rule 24(a)(1) of the Federal Rules of Civil Procedure and section 403(b) of the Bipartisan Campaign Reform Act of 2002 (BCRA or Act), Senators John McCain, Russell Feingold, Olympia Snowe and James Jeffords and Representatives Christopher Shays and Martin Meehan (movants) move to intervene in these consolidated actions to defend BCRA's constitutionality. While the defendants do not object to the motion, several of the plaintiffs (objectors)[1] oppose it on the ground that the movants "do not have the requisite Article III standing" to support intervention. Opp'n at 3 (capitalization altered). We disagree. Accordingly, and for the following reasons, the motion to intervene is granted.

[1] Specifically, Representative Mike Pence, Alabama Attorney General Bill Pryor, Libertarian National Committee, Inc., Alabama Republican Executive Committee, Libertarian Party of Illinois, DuPage Political Action Council, Jefferson County Republican Executive Committee, Christian Coalition of America, Inc., Club for Growth, Indiana Family Institute, National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, National Right to Life Political Action Committee, Martin J. Connors and Barret Austin O'Brock oppose the movants' intervention.

Rule 24(a)(1) provides that "[u]pon timely application anyone shall be permitted to intervene in an action . . . when a statute of the United States confers an unconditional right to intervene." Fed. R. Civ. P. 24(a)(1). Section 403(b) of the Act, in turn, provides that

> [i]n any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised . . . any member of the House of Representatives . . . or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment.

2 U.S.C. § 437h note. Because the plaintiffs have challenged numerous provisions of the Act on constitutional grounds, section 403(b) plainly confers upon each and every one of the movants an unconditional statutory right to intervene in the consolidated actions now before us.

The objectors argue that the standing inquiry does not end with the satisfaction of Rule 24(a)(1). Under Article III of the United States Constitution, our "judicial Power" extends only to live "Cases" or "Controversies." U.S. Const. art. III. The D.C. Circuit has long held that "because an intervenor participates on equal footing with the original parties to a suit, a movant for leave to intervene . . . must satisfy the same Article III standing requirements as original parties." *Bldg. & Constr. Trades Dep't v. Reich*, 40 F.3d 1275, 1282 (D.C. Cir. 1994); *see S. Christian Leadership Conf. v. Kelley*, 747 F.2d 777, 779 (D.C. Cir. 1984); *see also Mausolf v. Babbitt*, 85 F.3d 1295, 1300 (8th Cir. 1996) ("An Article III case or controversy is one where all parties have standing, and a would-be intervenor, because he seeks to participate as a party, must have standing as well.")[2]

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[2] In *Diamond v. Charles*, 476 U.S. 54 (1986), the United States Supreme Court held that an intervenor seeking to continue its suit in the absence of the party on whose side intervention was permitted must demonstrate that it fulfills the standing

Building & Construction Trades and *Kelley* address the question of Article III standing under Rule 24(a)(2) as opposed to Rule 24(a)(1). To date, neither the Supreme Court nor the D.C. Circuit has specifically addressed whether an Article III standing analysis is as appropriate in the Rule 24(a)(1) context as it is in the Rule 24(a)(2) context. The movants suggest that "[t]he argument for a relaxed rule of standing where the intervenor has an unconditional statutory right to participate seems . . . stronger than the argument for relaxed standing in the (a)(2) context." Movants' Reply at 5 n.3. However, we see no need in this case to address that distinction or to resolve the question whether the movants must satisfy the constitutional requirements of standing—i.e., that they have suffered or will suffer "an injury in fact" which is "concrete and particularized," "actual or imminent," "fairly . . . trace[able] to the challenged action" and "redress[able] by a favorable decision," *Lujan v. Defenders of Wildlife*, 504 US. 555, 560-61 (1992) (internal quotations omitted)—because we believe, as discussed below, that the movants have satisfied those requirements in any event.

The movants allege that

> [a]s federal officeholders and candidates for, or potential candidates for, election to federal office, they are among those whose conduct the Act regulates, and among those whom the Act seeks to insulate from the actual or apparent corrupting influence of special interest money. They want to run in elections, participate in a political system, and serve in a government in which all participants

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requirements of Article III. *See id.* at 68. Nonetheless, the Court reserved for another day the broader question of whether an intervenor must have Article III standing where the party on whose side intervention is sought remains in the litigation. *See id.* at 68-69. The circuits are split on that issue. *See Ruiz v. Estelle*, 161 F.3d 814, 831-32 (5th Cir. 1998) (D.C., Seventh and Eighth Circuits require intervenors to have Article III standing while Second, Fifth, Sixth, Ninth and Eleventh Circuits do not).

> comply with the reasonable contribution restrictions and other federal campaign finance regulations that the Act imposes in order to stop evasion and to prevent actual and apparent corruption. If any of the reforms embodied in the Act are struck down, . . . [the] movants will once again be forced to attempt to discharge their public responsibilities, raise money, and campaign in a system that [they believe to be] significantly corrupted by special-interest money.

Mem. in Supp. of Mot. to Intervene at 3-4; *see Lujan*, 504 U.S. at 561 ("At the pleading stage, general factual allegations of injury. . . may suffice, for on a motion to dismiss we presume that general allegations embrace those specific facts that are necessary to support the claim." (internal quotations and alteration omitted)); 7C Charles Alan Wright et al., *Federal Practice and Procedure* § 1914, at 418 (2d ed. 1986) (intervention pleading "is construed liberally in favor of the pleader and the court will accept as true the well-pleaded allegations" therein). These allegations are sufficient to support Article III standing.

The objectors' contrary position that (1) the movants "have not shown that they have an interest distinct from that of every other citizen," Opp'n at 8; (2) the movants have no legally protected interest "as sponsors and supporters" of the Act or "in upholding an unconstitutional statute," *id* at 8, 10; and (3) any injury the movants suffer cannot be redressed by a favorable decision, *see id.* at 12, is, simply stated, without merit.

First, as opposed to members of the general public, the movants have a concrete, direct, and personal stake-as candidates and potential candidates—in the outcome of a constitutional challenge to a law regulating the processes by which they may attain office. *See Buchanan v. FEC*, 112 F. Supp. 2d 58, 65 (D.D.C. 2000) ("Precluding candidates from challenging [election] rules under the FECA would leave few others to do so . . . . [I]t is relatively self-evident that the people who have the most to gain and lose from the

criteria governing [the electoral process] are the candidates themselves."); *see also Vote Choice, Inc. v. DiStefano*, 4 F.3d 26, 37 (1st Cir. 1993) ("[A]n impact on the strategy and conduct of an office-seeker's political campaign constitutes an injury of a kind sufficient to confer standing." (citing *Buckley v. Valeo*, 424 U.S. 1, 12 & n.10 (1976) (per curiam))). The objectors have cited no case law to the contrary.

Second, notwithstanding the objectors' assertions, *see* Opp'n at 8-9, the movants do not seek to vindicate a "sponsorship" interest in the Act. Nor are they precluded from intervening to *defend* (rather than challenge) the Act. In arguing that "no litigant has a legally protected interest in upholding an unconstitutional statute," *id.* at 10, the objectors conflate the threshold issue of standing with the merits of the case and ignore the fact that the BCRA provisions the movants seek to defend are presumed constitutional until proven otherwise. *See United States v. Morrison*, 529 U.S. 598, 607 (2000) ("Due respect for the decisions of a coordinate branch of Government demands that we invalidate a congressional enactment only upon a plain showing that Congress has exceeded its constitutional bounds"). Moreover, a movant may intervene in support of government defendants where "it will be injured in fact by the setting aside of the government's action it seeks to defend," the "injury will have been caused by that invalidation" and "the injury would be prevented if the government action is upheld." *Am. Horse Prot. Ass'n v. Veneman*, 200 F.R.D. 153, 156 (D.D.C. 2001); *see also Meek v. Metro. Dade County*, 985 F.2d 1471, 1480 (11th Cir. 1993) (movants seeking to intervene in defense of "election system that governed their exercise of political power" sufficiently "alleged a tangible actual or prospective injury" under *Lujan*); *Marshall v. Meadows*, 921 F. Supp. 1490, 1492 (E. D. Va. 1996) (U.S. Senator seeking intervention to defend constitutionality of state election law permitted to intervene because he had "a vital interest in a procedure through which he [sought] election").

Finally, the injury the movants allege here—that they will be forced to raise money in a corrupt system *in the event the Act is struck down*—plainly would be redressed by a favorable decision *upholding* the Act's provisions. Accordingly, because it is clear from the face of the pleadings that the movants have an unconditional statutory right-and Article III standing—to seek such a decision, it is this 3rd day of May, 2002 hereby

ORDERED that the objectors' request for an oral hearing on the motion to intervene is denied, *see Sam Fox Publ'g Co. v. United States*, 366 U.S. 683, 693-94 (1961) (district court had discretion to decide motion to intervene without hearing when result was clear from face of application); and it is further

ORDERED that the motion to intervene is granted.

SO ORDERED.

KAREN LeCRAFT HENDERSON
United States Circuit Judge

COLLEEN KOLLAR-KOTELLY
United States District Judge

RICHARD J. LEON
United States District Judge

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

Docket for 02-1733
No. 02-1733 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Right to Life Committee, Inc., et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al., Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

No. 02-1727 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Republican National Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May 28, 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

Docket for 02-1733
No. 02-1733 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Right to Life Committee, Inc., et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

No. 02-1727 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Republican National Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May 28, 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

Docket for 02-1733
No. 02-1733 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Right to Life Committee, Inc., et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

No. 02-1727 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Republican National Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May 28, 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

Docket for 02-1733
No. 02-1733 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Right to Life Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

No. 02-1727 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Republican National Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May 28, 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

Docket for 02-1733
No. 02-1733 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Right to Life Committee, Inc., et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

No. 02-1727 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Republican National Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May 28, 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

Docket for 02-1733
No. 02-1733 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Right to Life Committee, Inc., et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

No. 02-1727 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Republican National Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May 28, 2003